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ELECTRONICALLY FILED - January 16, 2007

6 Attorney for The Lenders Protection Group
 7

8 UNITED STATES BANKRUPTCY COURT
 9 DISTRICT OF NEVADA

10 —ooOoo—
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12 In Re:
 USA COMMERCIAL MORTGAGE
 13 COMPANY,
 Debtor.

14 _____/
 In Re:
 15 USA CAPITAL REALTY ADVISORS, LLC,
 Debtor.

16 _____/
 In Re:
 17 USA CAPITAL DIVERSIFIED TRUST
 DEED FUND, LLC,
 18 Debtor.

19 _____/
 In re:
 20 USA CAPITAL FIRST TRUST DEED
 FUND, LLC,
 Debtor.

21 _____/
 In re:
 22 USA SECURITIES, LLC,
 Debtor.

23 Affects:

- 24 ☒ All Debtors
 25 ☐ USA Commercial Mortgage Company
 26 ☐ USA Capital Realty Advisors, LLC
 27 ☐ USA Capital Diversified Trust Deed Fund, LLC
 28 ☐ USA Capital First Trust Deed Fund, LLC
☐ USA Securities, LLC

Case Nos.:
 BK-S-06-10725-LBR
 BK-S-06-10726-LBR
 BK-S-06-10727-LBR
 BK-S-06-10728-LBR
 BK-S-06-10729-LBR

JOINTLY ADMINISTERED
 Chapter 11

NOTICE OF APPEAL

Hearing Date: n/a

Hearing Time: n/a

The Lenders Protection Group, a group of investors/lenders in USA Commercial Mortgage Company ("USACM"), as identified on the *Statement Of The Law Offices Of Alan R. Smith Pursuant To Bankruptcy Rule 2019* filed herein on December 6, 2006, and as supplemented thereafter ("LPG"), through its counsel, Alan R. Smith, Esq., appeal under 28 U.S.C. § 158 and Fed. R. Bankr. Proc., Rule 8001(a), from the following judgments, orders or decrees of the United States Bankruptcy Court, District of Nevada, in the above captioned cases:

1. **Order Confirming The "Debtors' Third Amended Plan of Reorganization," As Modified Herein**, entered on the record as Docket #2376 on January 8, 2006, a copy of which is attached hereto as Exhibit A; and
2. **Findings of Fact And Conclusions Of Law In Support Of The Confirmation Order**, entered on the Record as Docket #2377, a copy of which is attached hereto as Exhibit B.

The names of all parties to these orders are as follows:

Annette W. Jarvis, Esq. Ray Quinney & Nebeker PC 36 South State St., Ste. 1400 Salt Lake City, UT 84145-0385 (801) 532-1500 Counsel For Debtors	Lenard E. Schwartz, Esq. Schwartz & McPherson Law 2850 S. Jones Blvd., Ste. 1 Las Vegas, NV 89146-5408 (702) 228-7590 Counsel for the Debtors
Marc A. Levinson, Esq. Orrick, Herrington & Sutcliffe 400 Capitol Mall, Ste. 3000 Sacramento, CA 95814 (916) 329-7921 Counsel for the Official Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund, LLC	Frank A. Merola, Esq. Stutman, Treister & Glatt, P.C. 1901 Avenue of the Stars, 12 th Fl. Los Angeles, CA 90067 (310) 228-5600 Counsel for Official Committee of Equity Security Holders of USA Capital First Trust Deed Fund LLC
Gerald M. Gordon, Esq. Greg Garman, Esq. Gordon & Silver, Ltd. 3960 Howard Hughes Pkwy, 9 th Fl Las Vegas, NV 89109 (702) 796-5555 Counsel for Official Committee of Holders of Executory Contract Rights of USA Commercial Mortgage Company	Rob Charles, Esq. Lewis and Roca, LLP LEWIS AND ROCA LLP 1 SOUTH CHURCH AVENUE #700 TUCSON, AZ 857011611 (520) 629-4427 Counsel for the Official Committee of Unsecured Creditors of USA Commercial Mortgage Company

1 2 3 4	August B. Landis, Esq. Office of the U.S. Trustee 300 Las Vegas Blvd., S, Ste 4300 Las Vegas, NV 89101 (702) 388-6600	Dean Kirby, Esq. Kirby & McGuinn, A P.C. 600 B Street, Suite 1950 San Diego, Ca 92101 (619) 685-4000 Counsel for Debt Acquisition Corp.
5 6 7 8	Robert Le Pome, Esq. 10120 S. Eastern Ave. #200 Henderson, NV 89052 (702) 492-1271 Counsel for The Alexander Group	Janet Chubb, Esq. Jones Vargas 100 W. Liberty St., 12 th Floor Reno, NV 89501 (775) 788-2205 Counsel for The Jones Vargas Direct Lenders
9 10 11 12	George Davis Weil, Gotshal & Manges LLP 767 Fifth Avenue New York, New York 10153 (212) 310-8000 Counsel for Compass Partners	David Cohen Warner Stephens, LLP 301 Commerce Street, #1700 Fort Worth, TX 76102 (817) 810-5250 Counsel for Sierra Liquidity Fund
13 14 15 16	Michael Schmahl, Esq. 1319 N. Wood Street, #3B Chicago, Il. 60622 (773) 278-5223 Counsel for Dr. Gary Kantor, Mrs. Kantor and Kantor Nephrology 401K plan	Eric Field, Esq. Assistant United States Attorney 333 Las Vegas Blvd. South, Suite 5000 Las Vegas, Nevada 89101 (702) 388-6336 Counsel for Pension Benefit Guarantee Corporation
17 18 19 20	Russell Walker, Esq. Woodbury & Kesler, P.C. 265 East 100 South, Suite 300 Salt Lake City, UT 84111 (801) 364-1100 Counsel for USA Investment Partners, LLC, Joseph Milinowski and Thomas Hanges	Gregory Walch, Esq. 400 South Fourth Street, Third Floor Las Vegas, NV 89101 (702) 791-0308 Counsel for Gregory J. Walch and Shauna M Walch Family Trust
21 22 23 24	Jeffrey Sylvester Sylvester & Polednak, LTD 7371 Prairie Falcon, Suite 120 Las Vegas, NV 89128 (702) 952-5200 Counsel for USA Commercial Real Estate Group	Susan Scann, Esq. Deaner, Deaner, Scann, Malan & Larsen 720 South Fourth Street, Suite 300 Las Vegas, NV 89101 (702) 382-6911 Counsel for Copper Sage Commercial Center and Binford Medical Developers, LLC

1 Andrew Brumby, Esq.
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7 Development

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Counsel for Liberty Bank

8
9 **DATED** this 16th day of January, 2007.

10 LAW OFFICES OF ALAN R. SMITH

11 /s/ Alan R. Smith

12 By

13 ALAN R. SMITH, ESQ.
14 *Attorney for The Lenders Protection Group*
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EXHIBIT A



Entered on Docket
January 08, 2007

Hon. Linda B. Riegle
United States Bankruptcy Judge

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Attorneys for Debtors and Debtors-in-Possession

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:
USA COMMERCIAL MORTGAGE COMPANY,
Debtor.

Case No. BK-S-06-10725 LBR
Case No. BK-S-06-10726 LBR
Case No. BK-S-06-10727 LBR
Case No. BK-S-06-10728 LBR
Case No. BK-S-06-10729 LBR

In re:
USA CAPITAL REALTY ADVISORS, LLC,
Debtor.

Chapter 11

In re:
USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC,
Debtor.

Jointly Administered Under
Case No. BK-S-06-10725 LBR

In re:
USA CAPITAL FIRST TRUST DEED FUND,
LLC,
Debtor.

**[PROPOSED] FINDINGS OF FACT
AND CONCLUSIONS OF LAW IN
SUPPORT OF THE "ORDER
CONFIRMING THE "DEBTORS'
THIRD AMENDED JOINT CHAPTER
11 PLAN OF REORGANIZATION, AS
MODIFIED HEREIN"**

In re:
USA SECURITIES, LLC,
Debtor.

Affects:

- ☒ All Debtors
☐ USA Commercial Mortgage Company
☐ USA Securities, LLC
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed Fund, LLC
☐ USA First Trust Deed Fund, LLC

Confirmation Hearing

Date: December 19, 2006
Time: 10:00 a.m.

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Commencing on December 19, 2006 at 10:00 a.m., the Court held a hearing (the "Confirmation Hearing") on the confirmation of the "Debtors' Third Amended Joint Chapter 11 Plan of Reorganization") (as modified by the Confirmation Order (as defined below), the "Plan"¹) proposed by USA Commercial Mortgage Company ("USACM"), USA Securities, LLC ("USA Securities"), USA Capital Realty Advisors, LLC ("USA Realty"), USA Capital Diversified Trust Deed Fund, LLC ("DTDF") and USA Capital First Trust Deed Fund, LLC ("FTDF"), debtors and debtors in possession in the above-captioned chapter 11 cases (the "Debtors"). Appearances were made as indicated on the record at the Confirmation Hearing.

The Court considered the pleadings and documents filed by the Debtors and other interested parties in connection with confirmation of the Plan, including the following:

(a) the Plan and all accompanying exhibits, including, without limitation, the Plan Documents Supplement, the Revised Schedule of Executory Contracts and Unexpired Leases, the forms of Disbursing Agent Agreements for USACM and FTDF filed by the Debtors and the Direct Lender Supplement;

(b) the "Debtors' First Amended Disclosure Statement to Debtors' Third Amended Joint Plan of Reorganization" (the "Disclosure Statement") previously approved by the Court;

(c) the "Memorandum of Points and Authorities in Support of Confirmation of the Debtors' Third Amended Joint Chapter 11 Plan of Reorganization" (the "Confirmation Memorandum");

(d) the Declaration of Thomas J. Allison filed in support of confirmation of the Plan (the "Allison Declaration");

(e) the Affidavit of Balloting Agent Regarding Solicitation and Tabulation of Votes in Connection with the Debtors' Third Amended Joint Chapter 11 Plan of Reorganization, regarding compliance with the "Solicitation Procedures" approved in the Disclosure Statement Order ("BMC Declaration");

¹ All terms not otherwise defined in these Findings of Fact and Conclusions of Law (the "Findings") shall have the meanings assigned to them in the Plan.

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(f) the Declaration of David Blatt of Compass Partners LLC in Support of Confirmation of Debtors' Third Amended Joint Plan of Reorganization ("Compass Declaration");

(g) the "Affidavit of Balloting Agent Regarding Solicitation and Tabulation of Votes in Connection with the Debtors' Third Amended Joint Chapter 11 Plan of Reorganization" and the Ballot Tabulation Report attached as Exhibit A thereto [Docket No. 2165] and "Supplemental Affidavit of Balloting Agent Regarding Solicitation and Tabulation of Votes in Connection with the Debtors' Third Amended Joint Chapter 11 Plan of Reorganization" and the Revised Ballot Tabulation Report attached as Exhibit B thereto [Docket No. 2243], which detail the tabulation of Ballots cast for or against the Plan;

(h) the "Partial Opposition to Debtors' Third Amended Joint Plan of Reorganization," filed by Erna D. Grundman and Joanne M. Grundman;

(i) the "Partial Opposition to Debtors' Third Amended Joint Plan of Reorganization," filed by Joanne M. Grundman;

(j) the "Objection of The Pension Benefit Guaranty Corporation to Debtors' Third Amended Joint Plan of Reorganization," filed by the Pension Benefit Guaranty Corporation ("PBGC");

(k) the "Objection to Confirmation of Debtors' Third Amended Joint Chapter 11 Plan of Reorganization," filed by Edward Burgess;

(l) "Liberty Bank's Limited Objection to Confirmation of Debtors' Third Amended Joint Chapter 11 Plan of Reorganization," filed by Liberty Bank;

(m) "Standard Property Company, LLC's Limited Objection to the Debtors' Third Amended Joint Plan of Reorganization," filed by Standard Property, LLC;

(n) "Joinder in Standard Property Company, LLC's Limited Objection to the Debtors' Third Amended Joint Plan of Reorganization on Behalf of Copper Sage Commerce Center LLC," filed by Copper Sage Commercial Center;

(o) "Joinder in Standard Property Company, LLC's Limited Objection to the Debtors' Third Amended Joint Plan of Reorganization on Behalf of Binford Medical Developers," filed by Binford Medical Developers;

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(p) "Memorandum of Points and Authorities in Opposition to Confirmation of Debtor's Plan," filed by Debt Acquisition Company of America V and the Declaration of Howard Justus [Docket No. 2032] filed in support thereof;

(q) "Limited Objection to Plan," filed by Gregory Walch and Shauna Walch, etc.;

(r) the "Objection of USA Investment Partners, LLC, Joseph Milanowski and Thomas Hantges to Confirmation of the Debtors' Third Amended Joint Chapter 11 Plan of Reorganization," filed by Joseph Milanowski and Thomas Hantges (the "H&M Objection") and the Declaration of Victoria Loob filed in support thereof (the "Loob Declaration");

(s) the "Objection to Confirmation of Debtors' Third Amended Joint Chapter 11 Plan of Reorganization as it Applies to Debtor USA Commercial Mortgage Company," filed by The Lenders Protection Group (the "LPG Objection");

(t) the Declaration of Donna Cangelosi filed in support of the LPG Objection (the "Cangelosi Declaration");

(u) Multiple joinders to objections to confirmation of the Plan filed by Objecting JV Creditors [Docket nos. 2040, 2099, 2179, 2180, 2182, 2184, and 2191];

(v) "Limited Objection to Pecos Professional Park Limited Partnership and Haspinov, LLC, to Debtors' Proposed Plan of Reorganization," filed by USA Commercial Real Estate Group;

(w) "Joinder in Limited Opposition to Plan," filed by Direct Lenders Alexander and others as shown in the Second Amended Statement of Robert C. LePome, Esq. and Nancy Allf, Esq. Pursuant to Rule 2019;

(x) "Errata to Limited Objection to Plan," filed by Gregory J. Walch and Shauna M. Walch, Trustees of the Gregory J. and Shauna M. Walch Family Trust;

(y) the "Opposition and Joinder of Sierra Liquidity Fund, L.L.C. in Oppositions [sic] to Confirmation of Debtors' Third Amended Joint Plan of Reorganization" (the "Sierra Liquidity Objection" and, collectively with the objections to the Plan listed in (h)-(x) above, the "Objections");

(z) the "Debtors' Combined Motion In Limine And Memorandum In Support Regarding The Objection Of USA Investment Partners, LLC, Joseph Milanowski And Thomas Hantges To The Confirmation Of The Debtors' Third Amended Joint Chapter 11 Plan Of Reorganization," filed by the Debtors; and

(aa) all other pleadings, affidavits and documents filed in connection with this matter.

The Court has heard the statements, arguments, representations and offers of proof of counsel regarding confirmation of the Plan at the Confirmation Hearing, and has considered the record of these Chapter 11 Cases and all testimony and evidence admitted at or before the Confirmation Hearing.

These findings of fact and conclusions of law are in support of the "Order Confirming the 'Debtors' Third Amended Joint Chapter 11 Plan Of Reorganization,' As Modified Herein" (the "Confirmation Order"), entered concurrently herewith.

Based on the foregoing, the Court makes the following findings of fact and conclusions of law, as supplemented by the findings of fact and conclusions of law stated orally and reported in open court on the record at the Confirmation Hearing (which are incorporated herein) pursuant to Bankruptcy Rule 7052.²

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

A. This matter is a core proceeding over which the Court has jurisdiction pursuant to 28 U.S.C. §§ 157(b) and 1334(a). Venue of this proceeding is proper under 28 U.S.C. §§ 1408 and 1409.

B. The Debtors provided notice of the Confirmation Hearing and of the time fixed for balloting and filing objections to confirmation of the Plan to all entities entitled to receive such notice, including all known holders of Claims and Equity Interests of the Debtors. The notice by the Debtors of such matters fully and adequately described the relief requested at the

² This document constitutes the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rules 7052 and 9014. Pursuant to Bankruptcy Rule 7052, findings of fact shall be construed as conclusions of law, and conclusions of law shall be construed as findings of fact, when appropriate.

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1 Confirmation Hearing and was reasonable, appropriate, and complied in all regards with due
2 process and the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules (including
3 Bankruptcy Rules 2002, 3017, 3018, and 3019), and the Local Bankruptcy Rules and orders of the
4 Court, including this Court's "Order Approving: (A) Debtors' Disclosure Statement; (B) Proposed
5 Notice of Confirmation Hearing; (C) Proposed Solicitation and Notice Procedures; and (D)
6 Proposed Form of Ballots" (the "Disclosure Statement Order").

7 C. Pursuant to the Disclosure Statement Order, all objections to confirmation
8 of the Plan, including all evidence in support thereof, were required to be filed by December 11,
9 2006 and, therefore, the Cangelosi Declaration filed on December 18, 2006 and the Sierra
10 Liquidity Objection filed on December 15, 2006 were not timely filed and were stricken from the
11 record and/or overruled.

12 D. The only evidence submitted in support of the H&M Objection was the
13 Loob Declaration. On December 18, 2006, the Debtors undertook an examination of Ms. Loob
14 pursuant to Bankruptcy Rule 2004 where Ms. Loob asserted her rights under the Fifth Amendment
15 of the United States Constitution in connection with questions concerning the H&M Objection and
16 her declaration in support thereof. Additionally, USA Investment Partners ("USAIP") and Joseph
17 Milanowski each failed to appear at Court-ordered examinations to be conducted pursuant to Rule
18 2004 of the Federal Rules of Bankruptcy Procedure. Upon consideration of Ms. Loob's assertion
19 of her Fifth Amendment rights, the failure of USAIP and Mr. Milanowski to appear at their
20 respective Rule 2004 examinations, and the Motion in Limine, the H&M Objection and Loob
21 Declaration were stricken from the record.

22 E. None of the Objections, including the LPG Objection, raised any objection
23 with respect to the classification of the Classes of Claims and/or Equity Interests as set forth in the
24 Plan or use of a Class to meet cramdown requirements. Further, Class A-5 consists of holders of
25 "claims" within the meaning of Bankruptcy Code section § 101(5).

26 F. The Debtors conducted the solicitation of acceptances or rejections of the
27 Plan, and the related distribution and tabulation of ballots with respect thereto, in good faith and in
28 compliance with the Disclosure Statement Order, all applicable provisions of the Bankruptcy

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Rules (including Bankruptcy Rules 3017 and 3018), all applicable provisions of the Bankruptcy Code (including sections 1125 and 1126), and all other applicable laws, rules, and regulations. Among other things, the Debtors transmitted the Plan, the Disclosure Statement, and the applicable ballot to all known holders of Claims and Equity Interests of the Debtors that are impaired under, and therefore entitled to vote on, the Plan.

G. The Plan satisfies all of the requirements of Bankruptcy Code section 1129(a) as follows:

1. 11 U.S.C. § 1129(a)(1): the Plan complies with all of the applicable provisions of the Bankruptcy Code, including Bankruptcy Code sections 1122 and 1123.

The classification structure is proper and in accordance with Section 1122 of the Bankruptcy Code. Each Class under the Plan differs in legal character or nature. All Claims and Equity Interests within each Class are substantially similar to the other Claims or Equity Interests in that Class because they are similar in legal character to the other Claims against or Equity Interests in Debtors in such class.

Article II Section C of the Plan designates Classes of Claims and Equity Interests for each of the Debtors, other than those specified in Sections 507(a)(2), (a)(3) and (a)(8) of the Bankruptcy Code, and states the treatment of each Class under the Plan in accordance with Sections 1123(a)(1), (2) and (3). The Plan also provides for the same treatment of each Claim and Equity Interest within a particular Class in accordance with Section 1123(a)(4).

Article IV of the Plan provides adequate means for its implementation in a manner that is consistent with Section 1123(a)(5) and (b).

2. 11 U.S.C. § 1129(a)(2): the Debtors have complied with all of the applicable provisions of the Bankruptcy Code, including Bankruptcy Code section 1125.

3. 11 U.S.C. § 1129(a)(3): the Debtors have proposed the Plan in good faith and not by any means forbidden by law. Moreover, the Plan itself, and the negotiated process leading to its formulation, along with all four Committees, provide independent evidence of the good faith of the Debtors.

4. 11 U.S.C. § 1129(a)(4): Article II Section B.1 and Article VII Section A of

1 the Plan, provides for the appropriate review and determination of the fees and expenses incurred
2 through the Effective Date.

3 5. 11 U.S.C. § 1129(a)(5): the Plan, the Disclosure Statement, the exhibits to
4 the Plan, the Confirmation Memorandum, the Plan Documents Supplement, the Direct Lender
5 Supplement, and the disclosures at the Confirmation Hearing disclose the identity, qualifications,
6 method of election, and/or compensation of the DTDF Administrator, the DTDF Post-Effective
7 Date Committee, USACM Trustee, the USACM Trust Committee, the Disbursing Agents for
8 FTDF, USA Realty and USA Securities, respectively. The appointment of such persons is
9 consistent with the interests of creditors and shareholders and with public policy.

10 6. 11 U.S.C. §§1129(a)(6): the requirements of Bankruptcy Code
11 section 1129(a)(6) are not applicable to the Plan.

12 7. 11 U.S.C. § 1129(a)(7): each holder of a Claim or Equity Interest in a Class
13 that is impaired under the Plan will receive or retain under the Plan property of a value, as of the
14 Effective Date, that is not less than such holder would so receive or retain if the Debtors were
15 liquidated under chapter 7 of the Bankruptcy Code on such date.

16 8. 11 U.S.C. § 1129(a)(8), (10): In the Chapter 11 Cases of FTDF, DTDF,
17 USA Realty, and USA Securities, Classes, B-1 through B-4, C-1 through C-4, D-1 through D-3
18 and E-1 through E-3 are unimpaired, and Classes B-5, C-5, D-4 and E-4, though impaired, have
19 accepted the Plan. The Plan, with respect to the Chapter 11 Cases of FTDF, DTDF, USA Realty,
20 and USA Securities, thus satisfies the requirement of Bankruptcy Code section 1129(a)(8).

21 In the Chapter 11 case of USACM, Classes A-1 through A-3 are unimpaired,
22 and classes A-4 through A-8 are impaired under the Plan. Classes A-6 through A-8 will receive
23 no distribution under the Plan and are deemed to reject the Plan. Impaired Class A-5 has voted to
24 accept the Plan, and based on the Revised Ballot Tabulation Report, impaired Class A-4 also has
25 voted to accept the Plan. Accordingly, Section 1129 (a)(8) has been satisfied with respect to
26 USACM's Chapter 11 Case. Based on the acceptance of the Plan by Class A-5, Section
27 1129(a)(10) has been met with regard to USACM's Chapter 11 Case even if Class A-4 had not
28 accepted the Plan as a result of the Del Bunch Rule 3018 contested matter.

1 Section 1129(a)(10) does not apply to FTDF or DTDF because there is no impaired
2 class of Claims in their respective Chapter 11 Cases

3 In USA Realty's case, Classes D-4, the only voting impaired Class of Claims, has
4 voted to accept the Plan. Section 1129(a)(10) is met in USA Realty's Chapter 11 Case.

5 In USA Securities' case, Class E-4, the only voting impaired Class of Claims, has
6 voted to accept the Plan. Section 1129(a)(10) is met with regard to USA Securities' Chapter 11
7 Case.

8 9. 11 U.S.C. § 1129(a)(9): the treatment of Allowed Administrative Expense
9 Claims, Allowed Priority Unsecured Claims, Allowed Priority Tax Claims and Allowed Secured
10 Tax Claims as set forth in Article II, Sections B. and C. of the Plan satisfies the requirements of
11 Bankruptcy Code section 1129(a)(9) in that holders of such Administrative Expense Claims,
12 Priority Unsecured Claims, Priority Tax Claims and Secured Tax Claims will be paid in full on the
13 Effective Date, or as soon as such expenses or claims become Allowed under the terms of the
14 Plan, except where the holder of such Claim agrees to a different treatment.

15 10. 11 U.S.C. § 1129(a)(11): the Plan satisfies the requirements of Bankruptcy
16 Code section 1129(a)(11) as the evidence submitted by the Debtors shows that each of the Debtors
17 has sufficient funds on the Effective Date to make all of the distributions required to be made
18 under the Plan and that the Plan, including all of the documents incorporated therein, has adequate
19 provisions for the creation and management of the USACM Trust, the retention of assets by and
20 the management of Post-Effective Date DTDF, for making distributions to holders of Allowed
21 Claims or Equity Interests classified in Classes A-4 (Allowed General Unsecured Claims against
22 USACM), B-4 (Allowed General Unsecured Claims against FTDF), B-5 (Equity Interests in
23 FTDF), C-4 (Allowed General Unsecured Claims against DTDF), C-5 (Equity Interests in DTDF),
24 D-4 (Allowed General Unsecured Claims against USA Realty) and E-4 (Allowed General
25 Unsecured Claims against USA Securities), which are the only Classes that will receive a
26 distribution under the Plan, and to implement the provisions of the settlement with the holders of
27 Class A-5 (Direct Lender Compromise Claims).

28 11. 11 U.S.C. § 1129(a)(12): the Plan's provision for the payment of statutory

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fees to the Office of the United States Trustee, satisfies the requirements of Bankruptcy Code section 1129(a)(12).

12. 11 U.S.C. § 1129(a)(13): the Plan satisfies the requirements of Bankruptcy Code section 1129(a)(13) because the Debtors are not subject to any retiree benefits as defined in Bankruptcy Code section 1144.

13. 11 U.S.C. § 1129(a)(14): the requirements of Bankruptcy Code section 1129(a)(14), which mandate the payment of domestic obligations, are inapplicable to these business Debtors.

14. 11 U.S.C. § 1129(a)(15): the requirements of Bankruptcy Code section 1129(a)(15), which only applies to cases where the debtor is an individual, are inapplicable to these business Debtors.

15. 11 U.S.C. § 1129(a)(16): the requirements of Bankruptcy Code section 1129(a)(16), which only applies to "the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust", are inapplicable because each of the Debtors is a moneyed business or commercial corporation.

16. 11 U.S.C. § 1129(b)(1) and (2): With respect to Classes A-6, A-7, A-8, D-5 and E-5, which have not accepted the Plan, and Class A-4, to the extent such Class has not accepted the Plan, the Plan satisfies the requirements of Bankruptcy Code sections 1129(b)(1) and 1129(b)(2) because the Plan does not discriminate unfairly against, and provides fair and equitable treatment with respect to, the Allowed Claims in Classes A-4, A-6 and A-7 and Allowed Equity Interests in Classes A-8, D-5 and E-5 in that the Plan provides for no distribution to any junior Class in a Debtor's Estate and does not discriminate unfairly among such Classes.

H. The Plan satisfies the requirements of Bankruptcy Code section 1129(b) as follows:

1. All of the applicable requirements of Bankruptcy Code section 1129(a) other than paragraph (8) are met with respect to the Plan.

2. The Plan does not discriminate unfairly with respect to Classes A-4 (to the extent such Class has not accepted the Plan), A-6, A-7, A-8, D-5 and E-5.

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3. The Plan is “fair and equitable” as to Classes A-4 (to the extent such Class has not accepted the Plan) and A-6 because holders of junior Claims or Equity Interests will not receive or retain under the Plan on account of such junior Claim or Equity Interest any property.

4. The only Classes of Claims and Equity Interests that are junior to Class A-4 Claims are Claims in Classes A-6 through A-8. Holders of Class A-6 Claims will not receive or retain any property unless holders of Allowed Class A-4 Claims are paid in full, plus interest. Holders of Class A-7 Claims will not receive or retain under the Plan on account of their Claim any property unless holders of Class A-4 and Class A-6 Claims are paid in full, plus interest. Furthermore, holders of Equity Interests in USACM, classified in Class A-8, will receive no distribution and retain no property under the Plan.

5. The only Classes of Claims and Equity Interests that are junior to Class A-6 Claims are Claims in Classes A-7 through A-8. Holders of Class A-7 Claims will not receive or retain under the Plan on account of their Claim any property unless holders of Class A-6 Claims are paid in full, plus interest. Furthermore, holders of Equity Interests in USACM, classified in Class A-8, will receive no distribution and retain no property under the Plan.

6. The Plan is “fair and equitable” as to Class A-7 because holders of junior Claims or Equity Interests will not receive or retain under the Plan on account of such junior Claim or Equity Interest any property. The only Class that is junior to Class A-7 Claims is Class A-8, which is comprised as Equity Interests in USACM. Holders of Equity Interests in USACM will receive no distribution or retain any property under the Plan.

7. The Plan is “fair and equitable” within the meaning of section 1129(b)(2)(C)(ii) as to Class A-8, which is comprised of Equity Interests in USACM, Class D-5, which is comprised of Equity Interests in USA Realty, and Class E-5, which is comprised of Equity Interests in USA Securities because no holder of any interest that is junior to the Equity Interests treated in these Classes will receive or retain any property under the Plan.

I. Article V of the Plan governing the assumption and rejection of executory contracts and unexpired leases satisfies the requirements of sections 365 and 1123(b)(2) of the Bankruptcy Code. As provided in the Debtors' Revised Schedule of Executory Contracts And

1 Unexpired Leases In Connection With Debtors' Third Amended Joint Chapter 11 Plan Of
2 Reorganization, filed on December 18, 2006 (docket no. 2162), the Debtors have elected to reject
3 all executory contracts and unexpired leases.

4 J. The principal purpose of the Plan is not the avoidance of taxes or the
5 avoidance of the application of section 5 of the Securities Act of 1933 (15 U.S.C. § 77e).

6 K. All modifications to the Plan filed or announced prior to the conclusion
7 of the Confirmation Hearing constitute technical changes and/or changes that have either been
8 consented to by affected constituents or which do not adversely affect or change the treatment
9 of any other Claims or Equity Interests. Accordingly, pursuant to Bankruptcy Rule 3019, these
10 modifications do not require additional disclosure under Bankruptcy Code section 1125 or
11 1127(a), or resolicitation of votes under Bankruptcy Code section 1126, nor do they require that
12 holders of Claims or Equity Interests be afforded an opportunity to change previously cast
13 acceptances or rejections of the Plan. The Plan as so modified meets the requirements of
14 Bankruptcy Code sections 1122 and 1123. Such modifications shall be deemed accepted by
15 each holder of a Claim or Equity Interest who has previously voted to accept the Plan.

16 L. The form of documents in the Plan Documents Supplement, including
17 the USACM Liquidating Trust Agreement, the DTDF Amended Operating Agreement, the
18 Direct Lender Supplement, and the Disbursing Agent Agreements for USACM and FTDF
19 substantially in the form filed by the Debtors are appropriate.

20 M. The appointment of Michael Tucker of FTI Consulting to serve as the
21 DTDF Administrator and to perform the duties specified under the Plan and the DTDF
22 Amended Operating Agreement is appropriate and consistent with the best interests of DTDF's
23 creditors, Equity Interest holders, and the interests of public policy.

24 N. The appointment of Geoffrey L. Berman of Development Specialists,
25 Inc. to serve as the USACM Trustee and to perform the duties specified under the Plan and the
26 USACM Trust Agreement is appropriate and consistent with the best interests of USACM's
27 creditors and the interests of public policy.

28 O. The parties identified to the Court to serve as members of the USACM

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1 Trust Committee and the DTDF Post-Effective Date Committee are appropriate to serve in such
2 roles.

3 P. All of the conditions precedent to Confirmation of the Plan described in
4 Article VI Section A of the Plan have been satisfied.

5 Q. The agreements, transactions and transfers authorized by the Confirmation
6 Order, including, without limitation, the USACM Trust Agreement and the DTDF Amended
7 Operating Agreement, are fair, equitable and reasonable, are entered into in good faith, are in the
8 best interests of the USACM and DTDF, their respective creditors and Estates (and with respect to
9 DTDF, its Equity Interest holders), and help provide adequate means for implementing the Plan.

10 R. Pursuant to Bankruptcy Code section 1125(e), Persons, including the
11 Debtors, the Committees, and their respective attorneys, agents, directors, officers and
12 representatives, have acted in good faith with respect to the solicitation of votes on the Plan and
13 thus are entitled to all the protections of Bankruptcy Code section 1125(e).

14 S. The injunctions, releases and limitations on liability contained in the Plan
15 are fair and equitable, are given for valuable consideration, were properly noticed to holders of
16 Claims and Equity Interests and other interested parties in accordance with the requirements of
17 due process and the applicable provisions of the Bankruptcy Code and Bankruptcy Rules, and are
18 in the best interests of the Debtors and their Estates.

19 T. Each term and provision of the Plan is valid and enforceable pursuant to its
20 terms.

21 U. The Plan satisfies the requirements for confirmation set forth in
22 section 1129 of the Bankruptcy Code.

23 V. The Court's retention of jurisdiction as set forth in Article VIII Section D of
24 the Plan is appropriate and comports with the parameters contained in 28 U.S.C. § 157.

25 W. The provisions of the Plan, these Findings and the Confirmation Order
26 shall bind the Debtors, their respective Estates, the Asset Purchaser, the USACM Trustee, the
27 DTDF Administrator, and all holders of Claims against, and Equity Interests in the Debtors,
28 whether or not the Claims or Equity Interests of such entities are Allowed under the Plan or

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1 impaired under the Plan, whether or not such entities have voted to accept or reject the Plan,
 2 and whether or not such entities have filed or are deemed to have filed proofs of Claim or
 3 Equity Interests in these Chapter 11 Cases.

4 X. The transfer of the Acquired Assets (including, without limitation, both
 5 real and personal property) to the Asset Purchaser is a transfer in accordance with Bankruptcy
 6 Code section 1146(c) and, therefore the making, delivery, filing or recording of any mortgages,
 7 deeds of trust, leasehold mortgages, leases (whether recorded or unrecorded), and/or the various
 8 instruments and documents of transfer as specified in or contemplated by the Asset Purchase
 9 Agreement or the Plan (collectively, "Instruments of Transfer"), and/or the exhibits thereto are
 10 hereby exempt from taxation under any law imposing a recording tax, stamp tax, sales tax,
 11 transfer tax, use tax or any similar tax or any so-called "bulk-sale". The appropriate federal,
 12 state or local government filing and recording officers are hereby directed to accept for filing or
 13 recording all Instruments of Transfer or other documents of transfer to be filed and recorded in
 14 accordance with the Plan or the Asset Sale Transaction, without payment of any such tax or
 15 government assessment, and without the presentation of any affidavits, instruments, or returns
 16 otherwise required for recording, other than the Confirmation Order. The Court retains
 17 jurisdiction to enforce the foregoing direction, by contempt proceedings or otherwise.

18 Y. All DTDF Litigation Claims and FTDF Transferred Assets accruing to
 19 DTDF or FTDF, or their Estates, shall remain assets of the Post-Effective Date DTDF, whether
 20 or not litigation relating thereto is pending on the Effective Date and whether or not any such
 21 right or cause of action has been listed or referred to in the Plan, the Disclosure Statement or
 22 any schedule, exhibit or other document filed in connection therewith.

23 Z. All USACM Litigation Claims and the FTDF Litigation Claims (transferred
 24 to USACM pursuant to section E.2.j of Art. IV of the Plan) accruing to USACM or FTDF,
 25 respectively, or their respective Estates shall remain assets of and vest in the USACM Trust,
 26 whether or not litigation relating thereto is pending on the Effective Date and whether or not any
 27 such right or cause of action has been listed or referred to in the Plan, the Disclosure Statement or
 28 any schedule, exhibit or other document filed in connection therewith.

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1 AA. As set forth in Article IV, Section E.1. of the Plan, the compromise between
2 USACM and the Direct Lenders is fair and reasonable and is in the best interests of the USACM
3 Estate and the Direct Lenders, respectively.

4 BB. As set forth in Article IV, Section E.2. of the Plan, the compromise between
5 USACM and FTDF is fair and reasonable and is in the best interests of the USACM Estate and
6 FTDF Estate, respectively.

7 CC. As set forth in Article IV, Section E.3. of the Plan, the compromise between
8 FTDF and DTDF is fair and reasonable and is in the best interests of the FTDF Estate and DTDF
9 Estate, respectively.

10 DD. As set forth in Article IV, Section E.4. of the Plan, the compromise between
11 FTDF and USA Realty is fair and reasonable and is in the best interests of the FTDF Estate and
12 USA Realty Estate, respectively.

13 EE. As set forth in Article IV, Section E.5. of the Plan, the compromise
14 between DTDF and USA Realty is fair and reasonable and is in the best interests of the DTDF
15 Estate and USA Realty Estate, respectively.

16 FF. The Asset Purchase Agreement and the transactions contemplated by the
17 Asset Purchase Agreement were negotiated and have been and are undertaken by USACM and
18 FTDF (FTDF together with USACM, the "Sellers") and Asset Purchaser at arm's length,
19 without collusion or fraud, and in good faith within the meaning of section 363(m) of the
20 Bankruptcy Code, and, accordingly, the reversal or modification on appeal of the authorization
21 provided herein to consummate the Asset Sale Transaction shall not affect the validity of the
22 transfer of the Acquired Assets to the Asset Purchaser unless such authorization is duly stayed
23 pending such appeal.

24 GG. The Auction conducted in accordance with the Bid Procedures Order on
25 December 7, 2006, at which Asset Purchaser was declared the highest and best bidder, was
26 conducted in good faith within the meaning of section 363(m) of the Bankruptcy Code. The
27 Asset Purchaser is a purchaser in good faith of the Acquired Assets. As a result of the
28 foregoing, the Sellers and Asset Purchaser entitled to the protections of section 363(m) of the

1 Bankruptcy Code.

2 HH. The Asset Purchase Agreement was negotiated, proposed and entered
3 into by the Debtors and the Asset Purchaser without collusion, in good faith, and from arm's-
4 length bargaining positions.

5 II. There were no brokers involved in the Asset Sale Transaction, and no
6 brokers' commissions are due with respect to the Asset Sale Transaction.

7 JJ. The Asset Purchaser is not an "insider" of any of the Debtors, as that
8 term is defined in section 101 of the Bankruptcy Code.

9 KK. The transfer of the Acquired Assets to the Asset Purchaser will be a
10 legal, valid, and effective transfer of the Acquired Assets, and will vest the Asset Purchaser
11 with all right, title, and interest of the Sellers to the Acquired Assets free and clear of all liens,
12 claims, interests, obligations and encumbrances whatsoever, including, but not limited to, (A)
13 all monetary and non-monetary defaults and rights that purport to give to any party a right or
14 option to effect any forfeiture, modification, right of first refusal, or termination of the Sellers'
15 or the Asset Purchaser's interest in, or rights in or under, the Acquired Assets, or any similar
16 rights, based in any way on any action taken (or failed to be taken) by any of the Debtors or any
17 other matter or occurrence relating to the period prior to the Closing (other than any right that
18 existed and was matured and exercisable, as of the Petition Date, to effect a substitution of
19 USACM as loan servicer under Section 3 of any Loan Servicing Agreement, as well as any
20 defenses of the loan servicer thereto (a "Surviving Section 3 Right")); (B) taxes arising under or
21 out of, in connection with, or in any way relating to the existence, ownership, management or
22 servicing of the Acquired Assets prior to the Closing; and (C) (i) all mortgages, deeds of trust,
23 security interests, conditional sale or other title retention agreements, pledges, liens, judgments,
24 demands, encumbrances, rights of first refusal or charges of any kind or nature, if any,
25 including, but not limited to, any restriction on the use, voting, transfer, receipt of income or
26 other exercise of any attributes of ownership and (ii) all debts arising in any way in connection
27 with any agreements, acts, or failures to act, of any of the Sellers or any of the Sellers'
28 predecessors or affiliates; all claims (as that term is defined in the Bankruptcy Code),

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obligations, liabilities, rights of recoupment or setoff, demands, guaranties, options, rights, restrictions, interest and matters of any kind and nature in any way relating to the existence, ownership, management or servicing of the Acquired Assets prior to Closing, whether known or unknown, contingent or otherwise, whether arising prior to or subsequent to the commencement of these cases pursuant to chapter 11 of the Bankruptcy Code, and whether imposed by agreement, understanding, law, equity or otherwise, including but not limited to claims otherwise arising under doctrines of successor liability (collectively, "Interests"); provided, however, that, in connection with any attempted post-Closing exercise of a Surviving Section 3 Right: (a) the Direct Lenders must provide Compass at least thirty (30) days prior written notice of the intended exercise of such right in accordance with section 8 of the Loan Servicing Agreement, (b) Compass shall have the right to challenge the exercise of such Surviving Section 3 Right by filing a motion with this Court prior to the expiration of such thirty (30) day period to determine whether such Surviving Section 3 Right has been properly and validly exercised (the "Compass Motion") and the Court shall retain jurisdiction to adjudicate any such disputes, (c) in the event Compass timely files such Compass Motion, the effectiveness of the attempted exercise of such Surviving Section 3 Right shall be stayed pending this Court's entry of an order in respect of the Compass Motion, and (d) the post-Closing survival of such Surviving Section 3 Right shall not impair in any respect any rights or interests of Compass under the Loan Servicing Agreements, including, without limitation, its rights under Section 2(c)(iii) of the Loan Servicing Agreement. In the event of a proper exercise of remedies under Section 3 of the Loan Servicing Agreement, (i) neither the Direct Lenders nor any replacement servicer selected by such Direct Lender shall have the right or ability to compromise, subordinate, or impair, in any respect, any claims purchased by Compass from the Estates for default interest, accrued servicing fees, late charges, success fees, or other amounts under the Loan Servicing Agreement, and (ii) the Confirmation Order shall be binding upon such replacement servicer regardless of whether such replacement servicer actually received such copy of the Confirmation Order.

LL. The Loan Servicing Agreements are not executory contracts under

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Bankruptcy Code section 365 and can be transferred to the Asset Purchaser under Bankruptcy Code sections 1123 and 363(b) without being assumed and assigned to the Asset Purchaser under Bankruptcy Code section 365.

MM. The Asset Purchaser would not have entered into the Asset Purchase Agreement and would not consummate the transactions contemplated thereby, thus adversely affecting the Sellers, their Estates, their creditors, and, with respect to FTDF, its Equity Interest holders, if the sale of the Acquired Assets to the Asset Purchaser was not free and clear of all Interests of any kind or nature whatsoever, or if the Asset Purchaser would, or in the future could, be liable for any of the Interests, including, without limitation, any liabilities not expressly assumed by the Asset Purchaser.

NN. The consideration provided by Asset Purchaser pursuant to the Asset Purchase Agreement (i) is fair and reasonable, (ii) is the highest and best offer for the Acquired Assets, (iii) will provide a greater recovery to the Sellers' Estates than would be provided by any other available alternative, and (iv) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any State (including Nevada), territory, possession, or the District of Columbia.

OO. Unless otherwise provided by law, the reversal or modification of the Confirmation Order and these Findings on appeal shall not affect the validity of the Plan, or any agreement or action authorized by the Confirmation Order or under the Plan with respect to any entity acting in good faith, whether or not that entity knows of the appeal, unless the Confirmation Order is stayed pending appeal.

PP. Based on the foregoing findings and conclusions, the Debtors are entitled to entry by this Court of the Confirmation Order.

Submitted by:
 RAY QUINNEY & NEBEKER P.C.
 and SCHWARTZER & MCPHERSON LAW FIRM

Approved / Disapproved by:
 OFFICE OF THE U.S. TRUSTEE

By: /s/ Jeanette E. McPherson
 LENARD E. SCHWARTZER, ESQ.
 JEANETTE E. MCPHERSON, ESQ.
 ANNETTE W. JARVIS, ESQ.
 STEVEN STRONG, ESQ.
Counsel for Debtors

By: _____
 August B. Landis

1 [PROPOSED] FINDINGS OF FACT AND CONCLUSIONS OF LAW IN SUPPORT OF
2 THE "ORDER CONFIRMING THE "DEBTORS' THIRD AMENDED JOINT CHAPTER
3 11 PLAN OF REORGANIZATION, AS MODIFIED HEREIN"

4 Approved/Disapproved by:
LEWIS AND ROCA, LLP

6 By: /s/ Rob Charles
SUSAN M. FREEMAN, ESQ.
7 ROB CHARLES, ESQ.
8 *Counsel for the Official Committee of*
9 *Unsecured Creditors of USA Commercial*
10 *Mortgage Company*

Approved/Disapproved by:
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By: /s/ Gregory Garman
GERALD M. GORDON, ESQ.
GREGORY E. GARMAN, ESQ.
Counsel for the Official Committee of
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USA Commercial Mortgage Company

11 Approved/Disapproved by:
12 ORRICK, HERRINGTON & SUTCLIFFE LLP
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14 By: /s/ Marc A. Levinson
15 MARC A. LEVINSON, ESQ.
JEFFERY HERMANN ESQ.
16 BOB L. OLSON, ESQ.
ANNE M. LORADITCH, ESQ.
17 *Counsel for the Official Committee of*
18 *Equity Security Holders of USA Capital*
Diversified Trust Deed Fund, LLC

Approved/Disapproved by:
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SHEA & CARLYON, LTD.

By: /s/ Christine Pajak
FRANK A. MEROLA, ESQ.
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First Trust Deed Fund LLC

19 Approved/Disapproved by:

21 By: /s/ Kevin Darby for
ALAN SMITH, ESQ.
22 *Counsel for Lenders Protection Group*

Approved/Disapproved by:

By: _____
DEAN KIRBY, ESQ.
Counsel for Debt Acquisition
Company of America

24 Approved/Disapproved by:

26 By: _____
ERIC FIELD, ESQ.
Counsel for Pension Benefit Guarantee
27 *Corporation*

Approved/Disapproved by:

By: _____
NANCY ALLF, ESQ.
ROBERT LEPOME, ESQ.
Counsel for The Alexander Group

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[PROPOSED] FINDINGS OF FACT AND CONCLUSIONS OF LAW IN SUPPORT OF THE "ORDER CONFIRMING THE 'DEBTORS' THIRD AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION, AS MODIFIED HEREIN"

Approved/Disapproved by:

Approved/Disapproved by:

By: _____
MICHAEL SCHMAHL, ESQ.
*Counsel for Dr. Gary Kantor, Mrs. Kantor
and Kantor Nephrology 401K plan*

By: /s/ Janet Chubb _____
JANET CHUBB, ESQ.
Counsel for Jones Vargas Direct Lenders

Approved/Disapproved by:

Approved/Disapproved by:

By: /s/ George Davis _____
GEORGE DAVIS ESQ.
Counsel for Compass Partners

By: _____
DAVID COHEN, ESQ.
Counsel for Sierra Liquidity Fund

Approved/Disapproved by:

Approved/Disapproved by:

By: _____
GREGORY J. WALCH ESQ.
*Counsel for Gregory J. Walch and Shauna
M. Walch, Trustees of the Gregory J. and
Shauna M. Walch Family Trust*

By: _____
JEFFREY SYLVESTER, ESQ.
*Counsel for USA Commercial Real Estate
Group*

Approved/Disapproved by:

Approved/Disapproved by:

By: _____
RUSSELL WALKER, ESQ.
*Counsel for USA Investment Partners, LLC,
Joseph Milanowski and Thomas Hantges*

By: _____
SUSAN SCANN, ESQ.
*Counsel for Copper Sage Commercial
Center and Binford Medical Developers, LLC*

Approved/Disapproved by:

Approved/Disapproved by:

By: /s/ Andrew Brumby _____
ANDREW BRUMBY, ESQ.
R. VAUGHN GOURLEY, ESQ.
Counsel for Standard Property Development

By: _____
WADE GOCHNOUR, ESQ.
ARYN M. FITZWATER, ESQ.
Counsel for Liberty Bank

///

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1 In accordance with LR 9021, counsel submitting this document certifies as follows (check one):

2 ☐ The court has waived the requirement of approval under LR 9021.

3 ☐ No parties appeared or filed written objections, and there is no trustee appointed in the case.

4 ☒ I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any
unrepresented parties who appeared at the hearing, and any trustee appointed in this case, and each has
5 approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the
party has approved, disapproved, or failed to respond to the document]:

6 **Failed to respond:**

7 WADE GOCHNOUR, ESQ.

SUSAN SCANN, ESQ.

8 RUSSELL WALKER, ESQ.

GREGORY J. WALCH ESQ.

9 JEFFREY SYLVESTER, ESQ.

10 DAVID COHEN, ESQ.

MICHAEL SCHMAHL, ESQ.

11 ROBERT LEPOME, ESQ.

ERIC FIELD, ESQ.

12 DEAN KIRBY, ESQ.

13 August B. Landis, Esq.

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EXHIBIT B



Entered on Docket
January 08, 2007

Hon. Linda B. Riegler
United States Bankruptcy Judge

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Attorneys for Debtors and Debtors-in-Possession

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:
USA COMMERCIAL MORTGAGE COMPANY,
Debtor.

Case No. BK-S-06-10725 LBR
Case No. BK-S-06-10726 LBR
Case No. BK-S-06-10727 LBR
Case No. BK-S-06-10728 LBR
Case No. BK-S-06-10729 LBR

In re:
USA CAPITAL REALTY ADVISORS, LLC,
Debtor.

In re:
USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC,
Debtor.

Chapter 11

Jointly Administered Under
Case No. BK-S-06-10725 LBR

In re:
USA CAPITAL FIRST TRUST DEED FUND, LLC,
Debtor.

In re:
USA SECURITIES, LLC,
Debtor.

**[PROPOSED] ORDER
CONFIRMING THE "DEBTORS'
THIRD AMENDED JOINT
CHAPTER 11 PLAN OF
REORGANIZATION," AS
MODIFIED HEREIN**

Affects:

- ☒ All Debtors
- ☐ USA Commercial Mortgage Company
- ☐ USA Securities, LLC
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA First Trust Deed Fund, LLC

Confirmation Hearing

Date: December 19, 2006

Time: 10:00 a.m.

Commencing on December 19, 2006 at 10:00 a.m., the Court held a hearing (the "Confirmation Hearing") on the confirmation of the "Debtors' Third Amended Joint Chapter 11 Plan of Reorganization" (the "Third Amended Plan") proposed by USA Commercial Mortgage Company ("USACM"), USA Securities, LLC ("USA Securities"), USA Capital Realty Advisors, LLC ("USA Realty"), USA Capital Diversified Trust Deed Fund, LLC ("DTDF") and USA Capital First Trust Deed Fund, LLC ("FTDF"), debtors and debtors in possession in the above-captioned chapter 11 cases (the "Debtors"). Appearances were made as indicated in the recorded transcript of the Confirmation Hearing.

The Court, having entered the "Findings of Fact and Conclusions of Law in Support of Order Confirming the 'Third Amended Joint Chapter 11 Plan of Reorganization, as Modified Herein'" (the "Findings"), which are hereby incorporated into this Confirmation Order, and good cause appearing,

IT HEREBY IS ORDERED THAT:

1. The Third Amended Plan, as amended or modified by this Confirmation Order, (the Third Amended Plan, as so modified, being referred to herein as the "Plan"¹) is approved and confirmed under Bankruptcy Code section 1129.

2. All Objections to the confirmation of the Plan, including objections to the Asset Sale Transaction, that have not been stricken from the record, withdrawn, waived, or settled, and all reservations of rights pertaining to confirmation of the Plan or the consummation of the Asset Sale Transaction included therein or otherwise made in any pleading, correspondence, written or oral statement, or other communication to the Bankruptcy Court, the Debtors, the United States Trustee, the Committees, or other parties in interest are overruled on the merits.

3. The Cangelosi Declaration and Loob Declaration are hereby stricken from the record.

4. The Sierra Liquidity Objection and H&M Objection are overruled and stricken

¹ Terms not otherwise defined herein shall have the same meanings ascribed to them in the Plan.

1 from the record.

2 5. The arguments raised orally at the Confirmation Hearing by The Lender Protection
3 Group regarding the classification of Class A-5 were not timely raised and are not properly before
4 the Court and, notwithstanding the foregoing, are overruled.

5 6. The failure to reference or discuss any particular provision of the Plan in this
6 Confirmation Order or the Findings shall have no effect on this Court's approval and authorization
7 of, or the validity, binding effect, and enforceability of, such provision; and each provision of the
8 Plan is authorized and approved and shall have the same validity, binding effect, and
9 enforceability as every other provision of the Plan, whether or not mentioned in this Confirmation
10 Order or the Findings.

11 7. The amounts, priorities, secured status, and classifications of Claims and Equity
12 Interests for purposes of the distributions to be made under the Plan shall be governed solely by
13 the terms of the Plan. The amounts, priorities, secured status, and classifications set forth on the
14 Ballots tendered to or returned by holders of Claims and Equity Interests in connection with voting
15 on the Plan (a) were set forth on the Ballots solely for purposes of voting to accept or reject the
16 Plan, (b) do not necessarily represent, and in no event shall be deemed to modify or otherwise
17 affect, the actual amount, priority, secured status, or classification of such Claims and Equity
18 Interests under the Plan for distribution purposes, and (c) shall not be binding on, or used as
19 evidence against the Debtors or the Post-Effective Date Entities for any purpose other than with
20 respect to voting on the Plan.

21 **Binding Effect**

22 8. The provisions of the Plan and this Confirmation Order shall bind (a) the Debtors
23 and their respective Estates, (b) the Post-Effective Date Entities, (c) the USACM Trust
24 Committee, USACM Trustee, the DTDF Administrator, and the DTDF Post-Effective Date
25 Committee (d) Compass Partners LLC, who is the Asset Purchaser under the Plan ("Compass"),
26 (e) all creditors of the Debtors; (f) all Direct Lenders; (g) all parties in interest; and (h) any
27 holder of an Administrative Expense Claim or Claim against or Equity Interest in any of the
28 Debtors, including all federal, state, and local governmental entities and fiscal intermediaries

thereof, whether or not (i) the Administrative Expense Claim, Claim, or Equity Interest of such holder is impaired under the Plan, (ii) such holder or entity has voted to accept or reject the Plan, and (iii) such holder or entity has filed or is deemed to have filed proof of Claim or Equity Interest, made a demand for payment of an Administrative Expense Claim, or has made appearance has been made in these Chapter 11 Cases.

No Substantive Consolidation / Recharacterization

9. In consideration of the compromises set forth in the Plan, the DTDF Committee in open court waived any right to seek substantive consolidation of the Debtors' Estates and waived any right to seek recharacterization of (i) the notes and deeds of trust in which the Direct Lenders hold interests as property of the Debtors' Estates or (ii) the Direct Lenders' interests in such notes and deeds of trust as unsecured claims against the Debtors' Estates.

10. On the Effective Date, all of the assets of each Debtor shall be sold, transferred, distributed or retained by each of such Debtor's respective Estates, or the Post-Effective Date Entities created for each such Debtor and its Estate under the Plan, with all proceeds of sold, transferred, or liquidated assets of each Debtor being retained by the respective Debtor's Estate, or the Post-Effective Date Entities created for each such Debtor and its Estate under the Plan. All Claims against and Equity Interests in the Debtors and their respective Estates shall be retained by the holders of Allowed Claims and Allowed Equity Interests against and in the respective Estates, except as otherwise provided for under the Plan. The allowance, voting, treatment and distributions on account of Allowed Claims and Allowed Equity Interests shall be as set forth in the Plan on an individual Estate basis.

11. Nothing in the Plan or this Confirmation Order shall be deemed to recharacterize either (i) the notes and deeds of trust in which the Direct Lenders hold interests as property of the Debtors' Estates or (ii) the Direct Lenders' interests in such notes and deeds of trust as unsecured claims against the Debtors' Estates.

Asset Sale Transaction

12. The Asset Purchase Agreement, dated and effective as of December 8, 2006 [Docket No. 2164] (the "Asset Purchase Agreement"), made by and between USACM and FTDF

(together with USACM, the "Sellers") and DTDF, USA Realty and USA Securities, as acknowledging parties, and Compass is hereby approved.

13. The Debtors and Compass, as may be mutually agreed by such parties, are hereby authorized to consummate the Asset Purchase Agreement at any time following ten (10) days after entry of this Confirmation Order, which may occur prior to the Effective Date of the Plan.

14. Except as expressly permitted or otherwise specifically provided for in the Asset Purchase Agreement or this Confirmation Order, pursuant to sections 105(a), 1123, and 363(f) of the Bankruptcy Code, the Acquired Assets shall be transferred to the Asset Purchaser on the terms and conditions set forth in the Asset Purchase Agreement, and upon Closing shall be, free and clear of all liens, claims, interests, obligations and encumbrances whatsoever, including, but not limited to, (A) all monetary and non-monetary defaults and rights that purport to give to any party a right or option to effect any forfeiture, modification, right of first refusal, or termination of the Sellers' or the Asset Purchaser's interest in, or rights in or under, the Acquired Assets, or any similar rights, based in any way on any action taken (or failed to be taken) by any of the Debtors or any other matter or occurrence relating to the period prior to the Closing (other than any right that existed and was matured and exercisable, as of the Petition Date, to effect a substitution of USACM as loan servicer under Section 3 of any Loan Servicing Agreement, as well as any defenses of the loan servicer thereto (a "Surviving Section 3 Right")); (B) taxes arising under or out of, in connection with, or in any way relating to the existence, ownership, management or servicing of the Acquired Assets prior to the Closing; and (C) (i) all mortgages, deeds of trust, security interests, conditional sale or other title retention agreements, pledges, liens, judgments, demands, encumbrances, rights of first refusal or charges of any kind or nature, if any, including, but not limited to, any restriction on the use, voting, transfer, receipt of income or other exercise of any attributes of ownership and (ii) all debts arising in any way in connection with any agreements, acts, or failures to act, of any of the Sellers or any of the Sellers' predecessors or affiliates; all claims (as that term is defined in the Bankruptcy Code), obligations, liabilities, rights of recoupment or setoff, demands, guaranties, options, rights, restrictions, interest and matters of any kind and nature in any way relating to the existence, ownership, management or servicing of

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the Acquired Assets prior to Closing, whether known or unknown, contingent or otherwise, whether arising prior to or subsequent to the commencement of these cases pursuant to chapter 11 of the Bankruptcy Code, and whether imposed by agreement, understanding, law, equity or otherwise, including but not limited to claims otherwise arising under doctrines of successor liability (collectively, "Interests"); provided, however, that, in connection with any attempted post-Closing exercise of a Surviving Section 3 Right: (a) the Direct Lenders must provide Compass at least thirty (30) days prior written notice of the intended exercise of such right in accordance with section 8 of the Loan Servicing Agreement, (b) Compass shall have the right to challenge the exercise of such Surviving Section 3 Right by filing a motion with this Court prior to the expiration of such thirty (30) day period to determine whether such Surviving Section 3 Right has been properly and validly exercised (the "Compass Motion") and the Court shall retain jurisdiction to adjudicate any such disputes, (c) in the event Compass timely files such Compass Motion, the effectiveness of the attempted exercise of such Surviving Section 3 Right shall be stayed pending this Court's entry of an order in respect of the Compass Motion, and (d) the post-Closing survival of such Surviving Section 3 Right shall not impair in any respect any rights or interests of Compass under the Loan Servicing Agreements, including, without limitation, its rights under Section 2(c)(iii) of the Loan Servicing Agreement. In the event of a proper exercise of remedies under Section 3 of the Loan Servicing Agreement, (i) neither the Direct Lenders nor any replacement servicer selected by such Direct Lender shall have the right or ability to compromise, subordinate, or impair, in any respect, any rights, claims or interests purchased by Compass from the Estates for default interest, accrued servicing fees, late charges, success fees, or other amounts under the Loan Servicing Agreement, and (ii) this Confirmation Order shall be binding upon such replacement servicer regardless of whether such replacement servicer actually received such copy of the Confirmation Order.

15. Any and all such Interests whatsoever shall attach to the net proceeds of the Asset Sale Transaction in the order of their priority, with the same validity, force and effect which they now have as against the Acquired Assets, subject to any claims and defenses that the Sellers may possess with respect thereto.

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1 16. Upon the Closing of the Asset Sale Transaction, the Sellers are hereby authorized
2 to pay SPCP, LLC the Break-Up Fee from the proceeds of the Asset Sale Transaction.

3 17. The transfer of the Acquired Assets to the Asset Purchaser pursuant to the Asset
4 Purchase Agreement constitutes a legal, valid, and effective transfer of the Acquired Assets, and
5 shall vest the Asset Purchaser with all right, title, and interest of the Sellers in and to the Acquired
6 Assets free and clear of all Claims and Interests of any kind or nature whatsoever.

7 18. If any Person or entity that has filed financing statements, mortgages, mechanic's
8 liens, lis pendens, or other documents or agreements evidencing Interests in the Acquired Assets
9 shall not have delivered to the Sellers prior to the Closing, in proper form for filing and executed
10 by the appropriate parties, termination statements, instruments of satisfaction, releases of all
11 Interests which the Person or entity has with respect the Acquired Assets or otherwise, then (a) the
12 Sellers are authorized and directed to execute and file such statements, instruments, releases and
13 other documents on behalf of the Person or entity with respect to the Acquired Assets and (b) the
14 Asset Purchaser is authorized to file, register, or otherwise record a certified copy of this
15 Confirmation Order, which, once filed, registered or otherwise recorded, shall constitute
16 conclusive evidence of the release of all Interests in the Acquired Assets of any kind or nature
17 whatsoever.

18 19. The consideration provided by the Asset Purchaser for the Acquired Assets under
19 the Asset Purchase Agreement is, and shall be deemed, to constitute reasonably equivalent value
20 and fair consideration under the Bankruptcy Code and under the laws of the United States, any
21 State (including Nevada), territory, possession, or the District of Columbia.

22 20. This Confirmation Order (a) shall be effective as a determination that, on the
23 Closing, all Interests of any kind or nature whatsoever existing as to the Acquired Assets prior to
24 the Closing have been unconditionally released, discharged and terminated (other than any
25 obligations expressly assumed by the Asset Purchaser under the Asset Purchase Agreement), and
26 that the conveyances described herein have been effected, and (b) shall be binding upon and shall
27 govern the acts of all entities including without limitation, all filing agents, filing officers, title
28 agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds,

1 administrative agencies, governmental departments, secretaries of state, federal, state, and local
 2 officials, and all other persons and entities who may be required by operation of law, the duties of
 3 their office, or contract, to accept, file, register or otherwise record or release any documents or
 4 instruments, or who may be required to report or insure any title or state of title in or to any of the
 5 Acquired Assets.

6 21. Each and every federal, state, and local governmental agency or department is
 7 directed to accept any and all documents and instruments necessary and appropriate to
 8 consummate the transactions contemplated by the Asset Purchase Agreement.

9 22. All entities who are presently, or on the Closing may be, in possession of any or all
 10 of the Acquired Assets are directed to surrender possession of the Acquired Assets to the Asset
 11 Purchaser on the Closing; provided, however, that, pursuant to the Asset Purchase Agreement,
 12 only working copies of the relevant databases and servicing and reporting software, will be
 13 delivered to the Asset Purchaser, with the originals being retained by USACM and transferred to
 14 the USACM Trust.

15 23. This Court retains jurisdiction as set forth in Section VIII.D. of the Plan, including
 16 the jurisdiction to enforce and implement the terms and provisions of this Confirmation Order and
 17 the Asset Purchase Agreement, all amendments thereto, any waivers and consents thereunder, in
 18 all respects, including, but not limited to, retaining jurisdiction to: (a) compel delivery of the
 19 Acquired Assets to the Asset Purchaser pursuant to the terms of this Confirmation Order and the
 20 Asset Purchase Agreement; and (b) to protect the Asset Purchaser against any Interests against the
 21 Sellers or the Acquired Assets.

22 24. Except for any liabilities expressly assumed by the Asset Purchaser pursuant to the
 23 Asset Purchase Agreement (the "Assumed Liabilities"), the sale of the Acquired Assets shall be
 24 free and clear of, and the Asset Purchaser shall have no liability or responsibility for, any Interests
 25 Without limiting the generality of the foregoing, and except as otherwise specifically provided in
 26 the Asset Purchase Agreement and this Confirmation Order, to the extent allowed by law, the
 27 Asset Purchaser shall not be liable for any Claims or Interests against the Sellers or any of their
 28 predecessors or affiliates or the Acquired Assets, and the Asset Purchaser shall have no successor

1 or vicarious liabilities of any kind or character including, but not limited to, any such liability that
2 may be imposed by statute (e.g., under so-called "bulk sale" laws) or any theory of antitrust,
3 environmental, successor or transferee liability, labor law, de facto merger, or substantial
4 continuity, whether known or unknown as of the Closing, now existing or hereafter arising,
5 whether matured, unmatured, fixed or contingent, with respect to the Sellers or any obligations of
6 the Sellers or the Acquired Assets arising prior to the Closing, including, but not limited to,
7 liabilities on account of any taxes arising, accruing, or payable under, out of, in connection with,
8 or in any way relating to the existence, ownership, management or servicing of the Acquired
9 Assets prior to the Closing.

10 25. Under no circumstances shall the Asset Purchaser be deemed a successor of or to
11 the Sellers for any Interest against or in the Sellers or the Acquired Assets of any kind or nature
12 whatsoever. The sale, transfer, assignment and delivery of the Acquired Assets shall not be
13 subject to any Interests, and Interests of any kind or nature whatsoever shall remain with, and
14 continue to be obligations of, the Sellers. All Persons holding Interests against or in the Sellers or
15 the Acquired Assets of any kind or nature whatsoever (including but not limited to, the Sellers
16 and/or their respective successors, including any trustee's thereof, creditors, lenders to any of the
17 Sellers, Direct Lenders, borrowers, employees, unions, former employees and shareholders,
18 administrative agencies, governmental units, secretaries of state, federal, state and local officials,
19 maintaining any authority relating to any environmental, health and safety laws, and their
20 respective successors or assigns) shall be, and are, forever barred, estopped, and permanently
21 enjoined from asserting, prosecuting, or otherwise pursuing such Interests of any kind or nature
22 whatsoever against the Asset Purchaser, its property, its successors and assigns, or the Acquired
23 Assets, as an alleged successor or otherwise, with respect to any Interest of any kind or nature
24 whatsoever such Person or entity had, has, or may have against or in the Sellers, their estates,
25 officers, directors, shareholders, or the Acquired Assets. Following the Closing, no holder of an
26 Interest in the Sellers shall interfere with the Asset Purchaser's title to or use and enjoyment of the
27 Acquired Assets based on or related to such Interest, or any actions that the Sellers may take in
28 their Chapter 11 Cases.

26. The transactions contemplated by the Asset Purchase Agreement are undertaken by the Asset Purchaser in good faith, as that term is used in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Asset Sale Transaction shall not affect the validity of the Asset Sale Transaction or any rights or protections accorded Asset Purchaser under the Asset Purchase Agreement or this Confirmation Order, unless such authorization is duly stayed pending such appeal. The Asset Purchaser is a purchaser in good faith of the Acquired Assets, and is entitled to all of the protections afforded by section 363(m) of the Bankruptcy Code.

27. The transfer of the Acquired Assets pursuant to the Asset Sale Transaction is a transfer pursuant to section 1146(c) of the Bankruptcy Code, and accordingly, the transfer of the Acquired Assets (including without limitation both real and personal property) to Asset Purchaser does not and will not subject the Sellers or Asset Purchaser, their affiliates or designees to any liability for any law imposing a mortgage or recording tax, transfer tax, stamp tax, sales tax, use or similar tax or any so-called "bulk-sale", to the fullest extent permitted by Section 1146(c) of the Bankruptcy Code. Each and every federal, state and local government agency or department is directed to accept any and all documents and instruments necessary and appropriate to consummate the transfer of any of the Acquired Assets, all without imposition or payment of any stamp tax, transfer tax, or similar tax.

Post-Effective Date Entities

28. Pursuant to Article IV, Section D.1. of the Plan, on the Effective Date, all assets of the USACM Estate not collected or disposed of on or prior to the Effective Date, including (a) Cash and noncash proceeds, (b) loans made to Placer Vineyards, Marquis Hotel, Colt Gateway LLC, and Colt Second TD and all related fees and default interest on the Placer Vineyards, Marquis Hotel, Colt Gateway LLC, and Colt Second TD loans, including the Loan Servicing Agreements related to the Placer Vineyards, Marquis Hotel, Colt Gateway LLC, and Colt Second TD loans, all other Notes Receivable (including the Investment Partners Note) and all Accounts Receivable, computers and software, (c) the Prepaid Interest (including Prepaid Interest collected by the Asset Purchaser post-Closing and including the DTDF Prepaid Interest, subject to the

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objection of the DTDF Committee, which shall be determined by the Court if not settled), (d) the USACM Accounts (including USACM Estate's share of the IP \$58 Million Promissory Note), (e) all USACM Litigation Claims, including without limitation the Non-Debtor Insider Litigation, belonging to or assertable by the USACM Estate, and (f) the FTDF Litigation Claims transferred to USACM pursuant to Article IV, Section E.2.j of the Plan (collectively, the "USACM Trust Assets"), minus any Cash needed to make the payments required to be made on the Effective Date pursuant to the Plan or needed to fund the reserves required to be established on the Effective Date, shall vest in the USACM Trust, pursuant to the Plan and shall be transferred to the USACM Trust as soon as practicable thereafter.

29. As of the Effective Date and pursuant to Article IV, Section D.2. of the Plan, all assets of the DTDF Estate not collected or disposed of prior to the Effective Date, including (a) Cash and noncash proceeds, (b) the DTDF Loans (including but not limited to rights associated with the former Epic and Sheraton Loans and the Loan Servicing Agreements for the Excluded DTDF Loans), (c) the FTDF Transferred Assets, (d) all DTDF Litigation Claims, including without limitation the Non-Debtor Insider Litigation, belonging to or assertable by the DTDF Estate, and (e) the DTDF Estate's share of the IP \$58 Million Promissory Note (collectively, the "DTDF Assets") shall remain the property of DTDF after the Effective Date. Post-Effective Date DTDF shall also be funded with Pro Rata distributions from the USACM Trust on account of the Allowed DTDF Unsecured Claim.

30. The Liquidating Trust Agreement as filed with the Court is approved, and Geoffrey L. Berman is approved as the USACM Trustee. On and after the Effective Date, the USACM Trust and the USACM Trustee shall have all powers and duties set forth in the Plan and in the USACM Trust.

31. The DTDF Amended Operating Agreement as filed with the Court is approved, and Michael Tucker is approved as the DTDF Administrator. On and after the Effective Date, the Post-Effective Date DTDF and DTDF Administrator shall have all powers and duties set forth in the Plan and in the DTDF Amended Operating Agreement.

32. As of the Effective Date, the USACM Trust Committee shall have the rights,

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1 powers, privileges, responsibilities, and authority as set forth in the Plan and in the USACM Trust.

2 33. As of the Effective Date, the DTDF Post-Effective Date Trust Committee shall
 3 have the rights, powers, privileges, responsibilities, and authority as set forth in the Plan and in the
 4 DTDF Amended Operating Agreement.

5 34. As of the Effective Date, USACM shall irrevocably assign, transfer and convey to
 6 the USACM Trust, all right, title and interest in and to the USACM Trust Assets, including, but
 7 not limited to, all USACM Litigation Claims and the FTDF Litigation Claims. All USACM
 8 Litigation Claims and the FTDF Litigation Claims accruing to USACM or FTDF, respectively, or
 9 their respective Estates shall remain assets of and vest in the USACM Trust, whether or not
 10 litigation relating thereto is pending on the Effective Date. Neither USACM, FTDF, their
 11 respective Estates nor the USACM Trust waives, relinquishes, or abandons any USACM
 12 Litigation Claim or FTDF Litigation Claim which constitutes property of their respective Estates,
 13 regardless of whether or not litigation relating thereto is pending on the Effective Date and
 14 whether or not any such right or cause of action has been listed or referred to in the Plan, the
 15 Disclosure Statement or any schedule, exhibit or other document filed in connection therewith.

16 35. The USACM Trust shall have full power and authority to prosecute, compromise or
 17 otherwise resolve any and all such USACM Litigation Claims and FTDF Litigation Claims, with
 18 all recoveries derived therefrom to be distributed under the Plan. The USACM Trust and the
 19 Estates shall not be barred by res judicata, collateral estoppel, judicial estoppel, issue preclusion or
 20 otherwise after Confirmation from prosecuting the USACM Litigation Claims or FTDF Litigation
 21 Claims. To the full extent permitted by law, USACM will be deemed to irrevocably transfer to the
 22 USACM Trustee, as its legal successor, all rights of USACM and the USACM Estate (including
 23 the USACM Estate after the Confirmation Date) to exercise or waive any attorney-client privilege,
 24 accountant-client privilege, work-product privilege or other privilege or immunity attaching to any
 25 documents or communications (whether written or oral) as set forth in the Liquidating Trust
 26 Agreement, and USACM and the USACM Trustee are authorized to take all necessary actions to
 27 effectuate the transfer of the Privileges.

28 36. On and after the Effective Date, pursuant to the Asset Purchase Agreement and the

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Plan, the USACM Trust shall have or, if it does not have, be granted access to all databases, software, documents, records and original computers and related hardware currently owned by, or currently in the possession or control of, any of the Debtors, which, in the discretion of the USACM Trust, are deemed to be necessary. The foregoing shall include, but not be limited to, electronic copies (in a form that will enable the USACM Trust to use and manipulate the data), all software and systems, all hardware, all documents, all records (including reconstructed Loan ledgers and other documents created during the Chapter 11 Cases), and all original computers and related hardware that are necessary for the USACM Trust to administer or service any Loans, to object to Claims against and Equity Interests in USACM, to prosecute or defend any litigation to which USACM, the USACM Estate or the USACM Trust is a party, to administer and/or manage the USACM Trust, and to make distributions to the beneficiaries of the USACM Trust.

Notwithstanding anything to the contrary herein, as agreed in the Asset Purchase Agreement, the USACM Trust shall retain the original relevant databases and servicing and reporting software.

37. All DTDF Litigation Claims accruing to DTDF or its Estate shall remain assets of the Post-Effective Date DTDF, whether or not litigation relating thereto is pending on the Effective Date. Neither DTDF, its Estate nor Post-Effective Date DTDF waives, relinquishes, or abandons any DTDF Litigation Claim which constitutes property of its Estate, regardless of whether or not litigation relating thereto is pending on the Effective Date and whether or not any such right or cause of action has been listed or referred to in the Plan, the Disclosure Statement or any schedule, exhibit or other document filed in connection therewith.

38. Post-Effective Date DTDF shall have full power and authority to prosecute, compromise or otherwise resolve any and all such DTDF Litigation Claims, with all recoveries derived therefrom to be distributed under the Plan. The Post-Effective Date DTDF and the DTDF Estate shall not be barred by res judicata, collateral estoppel, judicial estoppel, issue preclusion or otherwise after Confirmation from prosecuting the DTDF Litigation Claims.

39. On and after the Effective Date, pursuant to the Asset Purchase Agreement and the Plan, Post-Effective Date DTDF shall have or, if it does not have, be granted access to all databases, software, documents, records and original computers and related hardware currently

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owned by, or currently in the possession or control of, any of the Debtors, which, in the discretion of Post-Effective Date DTDF, are deemed to be necessary. The foregoing shall include, but not be limited to, electronic copies (in a form that will enable Post-Effective Date DTDF to use and manipulate the data), all databases, all software and systems, all hardware, all documents and all records (including the reconstructed Loan ledgers and other documents created during the Chapter 11 Cases), and all original computers and related hardware that are necessary for Post-Effective Date DTDF to collect upon and otherwise administer its retained Loans, to object to Claims against and Equity Interests in DTDF and Post-Effective Date DTDF, to prosecute or defend any litigation to which DTDF, the DTDF Estate or the Post-Effective Date DTDF is a party, to administer and/or manage Post-Effective Date DTDF, and to make distributions to the holders of Allowed Claims against and Equity Interests in DTDF and Post-Effective Date DTDF.

40. USACM Trust and Post-Effective Date DTDF shall retain their respective share of the Non-Debtor Insider Litigation and may, without further order of this Court, enter into a joint prosecution or sharing agreement with each other.

41. The Debtors, the Debtors' officers, the USACM Trustee, and the DTDF Administrator are authorized to take all actions necessary to implement the Plan and the transactions contemplated therein in accordance with the terms of the Plan, and are authorized to execute, deliver, file, or record such contracts, instruments, releases, and other agreements or documents and to take such other actions as they may determine to be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the this Confirmation Order, the Plan, the Plan Documents Supplement, the Direct Lender Supplement, or the exhibits and schedules to any of the foregoing, and any or all such documents shall be accepted by each of the respective local or state filing offices and recorded in accordance with applicable state law and shall become effective in accordance with their terms and the provisions of state law.

Intercompany Compromises.

42. As set forth in Article IV, Section E.1. of the Plan, the compromise between USACM and the Direct Lenders is hereby approved.

43. As set forth in Article IV, Section E.2. of Art. IV of the Plan, the compromise

1 between USACM and FTDF is hereby approved.

2 44. As set forth in Article IV, Section E.3. of Art. IV of the Plan, the compromise
3 between FTDF and DTDF is hereby approved.

4 45. As set forth in Article IV, Section E.4. of Art. IV of the Plan, the compromise
5 between FTDF and USA Realty is hereby approved.

6 46. As set forth in Article IV, Section E.5. of Art. IV of the Plan, the compromise
7 between DTDF and USA Realty is hereby approved.

8 **Loan Distributions, Loan Servicing Agreements, Loans And Deeds of Trust**

9 47. After the Effective Date, and except as otherwise provided in the Plan, the Direct
10 Lenders and Post-Effective Date DTDF shall be entitled to distributions from the Direct Lender
11 Loans in accordance with the related Loan Servicing Agreements, the applicable loan and security
12 documents, and applicable Nevada law, by the Asset Purchaser, as the third party servicer. In
13 accordance with Article IV, Section E.1.d.ii of the Plan, Section 7.3 of the Asset Purchase
14 Agreement and any other orders of this Court, the Asset Purchaser is authorized and directed to
15 net Prepaid Interest sums due from Direct Lenders and collect Prepaid Interest from Borrowers,
16 and remit those amounts to USACM or the USACM Trust, as applicable. After the Closing, the
17 Direct Lenders are obligated to comply with the terms of the applicable Loan Servicing
18 Agreements including the obligation to pay the fees at the rate expressed as a percentage specified
19 in Section 5 thereof, without regard to any inconsistent offering circular or other document;
20 provided, however, that solely as to the timely filed objections by (i) Erna D. Grundman and
21 Joanne M. Grundman, jointly, (ii) Joanne M. Grundman, and (iii) Gregory Walch and Shauna
22 Walch to the Loan Servicing Fee Schedule: (i) such objections concerning pre-Closing servicing
23 fees shall be resolved as between USACM and the objecting Direct Lenders under the Alternative
24 Dispute Resolution Agreement; and (ii) entry of the Confirmation Order shall not resolve such
25 objections concerning post-Closing servicing fees as between the Asset Purchaser and the
26 objecting Direct Lender.

27 48. Nothing in the Plan or this Confirmation Order shall be deemed to modify, in any
28 respect, the Direct Lenders' notes or the deeds of trust securing such notes.

Preservation of Rights of Action and Defenses.

49. Except to the extent such rights, Claims, causes of action, defenses, and counterclaims are expressly and specifically released in connection with the Plan or in any settlement agreement approved during the Chapter 11 Cases, (1) any and all rights, Claims, causes of action, defenses, and counterclaims accruing to or assertable by the Debtors or their Estates, including without limitation any and all Litigation Claims, the Non-Debtor Insider Litigation, Claims related to the Undistributed Cash and Claims for Prepaid Interest shall remain assets of such Estates and be assertable by the Debtors or such Estates, and to the extent applicable, be transferred to and assertable by any respective Post-Effective Date Entity, whether or not litigation relating thereto is pending on the Effective Date, and whether or not any such rights, Claims, causes of action, defenses, and counterclaims have been Scheduled or otherwise listed or referred to in the Plan or Disclosure Statement, or any other document Filed with the Court, and (2) neither the Debtors nor the Post-Effective Date Entities is hereby deemed to waive, relinquish, or abandon (nor shall they be estopped or otherwise precluded from asserting) any right, Claim, cause of action, defense, or counterclaim that constitutes property of such Debtor's Estate or is assertable by such Estate: (A) whether or not such right, Claim, cause of action, defense, or counterclaim has been listed or referred to in the Schedules, the Plan, the Disclosure Statement, or any other document Filed with the Court, (B) whether or not such right, Claim, cause of action, defense, or counterclaim is currently known to the Debtors, and (C) whether or not a defendant in any litigation relating to such right, Claim, cause of action, defense, or counterclaim filed a proof of Claim in the Chapter 11 Cases, filed a notice of appearance or any other pleading or notice in the Chapter 11 Cases, voted for or against the Plan, or received or retained any consideration under the Plan. Without in any manner limiting the scope of the foregoing, notwithstanding any otherwise applicable principle of law or equity, including, without limitation, any principles of judicial estoppel, res judicata, collateral estoppel, issue preclusion, or any similar doctrine, the failure to list, disclose, describe, identify, or refer to a right, Claim, cause of action, defense, or counterclaim, or potential right, Claim, cause of action, defense, or counterclaim, in the Schedules, the Plan, the Disclosure Statement, or any other document Filed with the Court shall in no manner

1 waive, eliminate, modify, release, or alter the Debtors or the Post-Effective Date Entities' rights to
 2 commence, prosecute, defend against, settle, and realize upon any rights, Claims, causes of action,
 3 defenses, or counterclaims that any of the Debtors or the Estates has or may have as of the
 4 Confirmation Date. The Debtors or the Post-Effective Date Entities may commence, prosecute,
 5 defend against, recover on account of, and settle all rights, Claims, causes of action, defenses, and
 6 counterclaims in their sole discretion in accordance with what is in the best interests, and for the
 7 benefit, of the Debtors or the Post-Effective Date Entities.

8 **Nondischarge of Debtors and Injunction.**

9 50. Pursuant to Article IV, Section H. of the Plan and section 1141(d)(3) of the
 10 Bankruptcy Code, the Confirmation Order shall not discharge Claims against or Equity
 11 Interests in the Debtors. However, no holder of a Claim or Equity Interest may receive any
 12 payment from or seek recourse against any assets that are distributed or to be distributed
 13 under the Plan, except for those assets required to be distributed to such holder as expressly
 14 provided for in the Plan. As of the Effective Date, all Entities are precluded from asserting
 15 against any assets that are distributed or to be distributed under the Plan any Claims, rights,
 16 causes of action, liabilities or interests based upon any act or omission, transaction or other
 17 activity of any kind or nature that occurred prior to the Effective Date, other than as
 18 expressly provided in the Plan or Confirmation Order, regardless of the filing, lack of filing,
 19 allowance or disallowance of such a Claim or Equity Interest and regardless of whether such
 20 an Entity has voted to accept the Plan.

21 51. Except as otherwise provided in the Plan or this Confirmation Order, on and
 22 after the Effective Date all Entities that have held, currently hold or may hold a debt, Claim,
 23 other liability or Equity Interest against or in the Debtors that would be discharged upon
 24 confirmation of the Plan on the Effective Date but for the provisions of section 1141(d)(3) of
 25 the Bankruptcy Code shall be permanently enjoined from taking any of the following actions
 26 on account of such debt, Claim, liability, Equity Interest or right: (A) commencing or
 27 continuing in any manner any action or other proceeding on account of such debt, Claim,
 28 liability, Equity Interest or right against assets or proceeds thereof that are to be distributed

1 under the Plan, other than to enforce any right to a distribution with respect to such assets
 2 or the proceeds thereof as provided under the Plan; (B) enforcing, attaching, collecting or
 3 recovering in any manner any judgment, award, decree, or order against any assets to be
 4 distributed to creditors under the Plan, other than as permitted under subparagraph (A)
 5 above; and (C) creating, perfecting or enforcing any lien or encumbrance against any assets
 6 to be distributed under the Plan, other than as permitted by the Plan, provided that nothing
 7 contained herein shall limit the rights of any distributee under the Plan from taking any
 8 actions in respect of property distributed or to be distributed to it under the Plan.

9 **Executory Contracts and Unexpired Leases**

10 52. Pursuant to the Debtors' Revised Schedule of Executory Contracts And Unexpired
 11 Leases In Connection With Debtors' Third Amended Joint Chapter 11 Plan Of Reorganization,
 12 filed on December 18, 2006 (docket no. 2162), all executory contracts and unexpired Leases of the
 13 Debtors are hereby rejected, effective as of the Effective Date.

14 53. Pursuant to Article V, Section B.3. of the Plan, if the rejection of an executory
 15 contract or unexpired lease by any of the Debtors pursuant to Article V, Section B.1. of the Plan
 16 results in damages to the other party or parties to such contract or lease, a request for payment of
 17 any and all Claims allegedly arising from a Debtor's rejection of executory contracts or unexpired
 18 leases, whether rejected under the Plan or by separate proceeding, must be Filed on or before the
 19 first Business Day which is thirty (30) calendar days after the date of service of notice of entry of
 20 the Confirmation Order. Failure to File such a request for payment prior to the time set forth
 21 herein shall be forever barred from asserting such Claims against the Debtors, the Estates, the
 22 Post-Effective Date Entities and/or any other Entity or any of their respective property, and the
 23 Debtors, the Estates, and the Post-Effective Date Entities, to the extent applicable, shall be
 24 discharged of any obligation on such Claim or any other Claim related such Claim.

25 **Administrative Expense Claims and Objections to Claims**

26 54. Pursuant to Article II, Section B.1.c.i. of the Plan, except as provided in Article II,
 27 Sections B.1.c.ii. and B.1.c.iii. of Art. II of the Plan, requests for payment of Administrative
 28 Expense Claims must be Filed and served on the Debtors and the Post-Effective Date Entities, the

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Committees (to the extent such Committees are not dissolved) and the U.S. Trustee by no later than thirty (30) days after the Effective Date (the “Administrative Expense Claim Bar Date”) Any holder of an Administrative Expense Claim who fails to File a request seeking to have its Claim Allowed on or before the Administrative Expense Claim Bar Date shall be forever barred from seeking the allowance of its Administrative Expense Claim, and the Debtors and their Estates, including any Post-Effective Date Entities, if applicable, shall be discharged of any obligation on such Claim or any other Claim related to the Administrative Expense Claim.

55. Pursuant to Article II, Section B.1.c.ii. of the Plan, all Professionals or other Entities requesting compensation or reimbursement of expenses under sections 327, 328, 330, 331, 503(b) and/or 1103 of the Bankruptcy Code for services rendered before the Effective Date (including any compensation requested by any professional or any other Entity for making a substantial contribution in the Chapter 11 Cases under section 503(b)(3)(D) of the Bankruptcy Code) shall File and serve on the Debtors, the Post-Effective Date Entities, the Committees (to the extent such Committees are not yet dissolved) and the U.S. Trustee an application for final allowance of compensation and reimbursement of expenses no later than forty-five (45) days after the Effective Date (the “Professionals Administrative Expense Claim Bar Date”). Any objections to such applications must be Filed and served in accordance with applicable law, including Nevada District Court Local Rule 9014. Any Professional who fails to File an application requesting payment on or prior to the Professionals Administrative Expense Claim Bar Date shall be forever barred from seeking the allowance of its Administrative Expense Claim or any other Claim, and the Debtors, their Estates and any Post-Effective Date Entities, if applicable, shall be discharged of any obligation on such Claim or any other Claim related to the Professional’s Claim.

56. Pursuant to Article II, Section B.1.c.iii. of the Plan, holders of Ordinary Course Administrative Expense Claims shall not be required to File any request for payment of such Claims by the Administrative Expense Claim Bar Date. Each Ordinary Course Administrative Expense Claim shall be assumed and paid by the obligated Estate under the terms and conditions of the particular transaction giving rise to that Ordinary Course Administrative Expense Claim, without any further action by the holder of such Ordinary Course Administrative Expense Claim

57. Pursuant to Article II, Section B.1.c.iv. of the Plan, all holders of Administrative Expense Claims (including without limitation, Professionals requesting compensation or reimbursement of expenses), except holders of Ordinary Course Administrative Expense Claims, are required to File a request for payment of such Claims in accordance with the Plan. Failure to File a request for payment of an Administrative Expense Claim prior to the Administrative Expense Claim Bar Date or the Professionals Administrative Expense Claim Bar Date, as applicable, shall forever bar the holder from asserting such Claims against the Debtors, the Estates, the Post-Effective Date Entities and any other Entity or any of their respective property, and the Debtors, the Estates and the Post-Effective Date Entities, to the extent applicable, shall be discharged of any obligation on such Claim or any other Claim related to the Administrative Expense Claim.

58. The Post-Effective Date Entities, the FTDF Committee (to the extent it is still in existence) or FTDF (for the benefit of and on behalf of the FTDF Estate), USA Realty on behalf of the USA Realty Estate and USA Securities on behalf of the USA Securities Estate, shall be responsible for Filing objections to any and all Claims and Equity Interests that are Disputed Claims or Disputed Equity Interests asserted against its respective Estate. The Post-Effective Date Entities, the FTDF Committee (to the extent it is still in existence) or FTDF (for the benefit of and on behalf of the FTDF Estate), USA Realty on behalf of the USA Realty Estate and USA Securities on behalf of the USA Securities Estate have the authority to settle and compromise any objection to a Disputed Claim or Disputed Equity Interest, if appropriate, without further order of the Court, and they may assert any and all Claims, rights of action, causes of action, counterclaims and defenses held by their respective Estates. The Estates, including the Post-Effective Date Entities, may, but shall not be required to, set off or recoup against any Claim or Equity Interest and the distributions to be made pursuant to the Plan in respect of such Claim or Equity Interest, any counterclaims, setoffs, or recoupment of any nature whatsoever that the Estates may have against the holder of the Claim or Equity Interest, but neither the failure to do so nor the allowance of any Claim or Equity Interest shall constitute a waiver or release by the Estates or the Post-Effective Date Entities of any such Claim, cause of action, setoff or recoupment.

59. Unless otherwise extended by order of this Court, objections to the allowance of Claims and Equity Interests shall be Filed and served upon the Entities asserting such Claims or Equity Interests as follows: (A) for any and all Claims and Equity Interests to which the General Bar Date applies, ninety (90) days after the Effective Date; (B) for any and all Claims to which the Administrative Claims Bar Date or the Professionals Administrative Bar Date applies, thirty (30) days after the expiration of the respective Bar Date; and (C) for any and all Claims to which the Bar Date applicable under section B.3 of Art. V of the Plan applies, thirty (30) days after the expiration of that Bar Date.

Chief Restructuring Officer / Disbursing Agent

60. After the Effective Date, Tom Allison shall remain Chief Restructuring Officer of FTDF, USA Realty and USA Securities.

61. In the Chapter 11 Cases of FTDF, USA Securities and USA Realty, the Debtors shall act as Disbursing Agents under the Plan for their respective Estates and shall make all distributions required under the Plan. At any time after thirty (30) days following the Effective Date, such Debtors may request that all future distributions of their respective Estates be handled by a Disbursing Agent, which may be Development Specialists, Inc. ("DSI"), including through Geoffrey L. Berman, acting in its own right and not as USACM Trustee, as Disbursing Agent. In the Chapter 11 Case of FTDF, after FTDF has made all initial distributions required under the Plan, DSI shall act as Disbursing Agent pursuant to a Disbursing Agent Agreement substantially in the form filed with the Court by the Debtors, as such agreement may be modified by such parties.

62. Pursuant to the Asset Purchase Agreement and the Plan, FTDF, USA Securities and USA Realty shall have copies of or access to all databases, software, documents and records of, or in the possession or control of, any of the Debtors, as may be necessary or appropriate in the wind down and dissolution of FTDF, USA Securities and USA Realty, including as necessary or appropriate, all databases, software, documents and records necessary to object to and make distributions to Claims and Equity Interest, as Allowed, against FTDF, USA Securities and USA Realty.

63. In the USACM Chapter 11 Case, the USACM Trustee shall act as Disbursing Agent under the Plan for distributions to USACM Trust Beneficiaries, and DSI shall act as Disbursing Agent under the Plan with respect to disbursements under the Plan after the Effective Date to holders of Allowed Administrative Expense Claims, Allowed Priority Tax Claims, Allowed Secured Tax Claims, Allowed Other Secured Claims, and Allowed Claims in Classes A-1, A-2, and A-3 and Disputed Claims pursuant to a Disbursing Agent Agreement substantially in the form filed by the Debtors. In the DTDF Chapter 11 Case, Post-Effective Date DTDF shall act as Disbursing Agent under the Plan for the DTDF Estate, and shall make all distributions required under the Plan, and may employ or contract with other Entities to assist in or perform any distribution of property.

Miscellaneous.

64. As set forth in Article VIII, Section A. of the Plan, the limitation of liability and release provisions shall be effective and binding upon all applicable Persons and entities to the fullest extent provided in the Plan.

65. The Debtors and Debtors in Possession, without any action by Equity Interests whatsoever, are hereby authorized to execute such documents and take such other action as is necessary to effectuate the transactions provided for in the Plan.

66. As set forth in Article II, Section B.1.b. of the Plan, on or before the Effective Date, Statutory Fees for each Estate shall be paid in Cash, in full when due.

67. As soon as practicable after the occurrence of the Effective Date, but no later than ten (10) days thereafter, the USACM Trustee shall File and serve on each holder of a Claim or Equity Interest a written notice of the occurrence of Effective Date. Each Committee shall post notice of the occurrence of the Effective Date on its respective website.

68. In accordance with section 1146(c) of the Bankruptcy Code, the making delivery, filing or recording of any mortgages, deeds of trust, leasehold mortgages, leases (whether recorded or unrecorded) and/or the various instruments and documents of transfer as specified in or contemplated by the Plan, including the documents related to the Asset Sale Transaction and/or the exhibits thereto, are hereby exempt from taxation under any law imposing a mortgage or

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1 recording tax, stamp tax, sales tax, transfer tax, use tax or any similar tax. The appropriate federal,
 2 state or local government officers are hereby directed to accept for filing or recording all
 3 Instruments of Transfer or other documents of transfer to be filed and recorded in accordance with
 4 the Plan and the exhibits thereto, without payment of any such tax or government assessment, and
 5 without the presentation of any affidavits, instruments, or returns otherwise required for recording
 6 other than the Confirmation Order. The Court retains jurisdiction to enforce the foregoing
 7 direction by contempt proceedings or otherwise.

8 69. USACM shall have authority to take actions on behalf of USACM and the USACM
 9 Estate until and including the Effective Date, when the appointment of the USACM Trustee
 10 becomes effective and the USACM Trust Assets are transferred to the USACM Trust and the
 11 USACM Trust becomes effective in accordance with this Plan and the USACM Trust Agreement.
 12 As soon as practicable thereafter, USACM shall be dissolved in accordance with the Confirmation
 13 Order and applicable state law.

14 70. DTDF shall have authority to take actions on behalf of DTDF and the DTDF Estate
 15 until and including the Effective Date and, thereafter, the Post-Effective Date DTDF shall have the
 16 exclusive authority to act on behalf of DTDF and the DTDF Estate. When the Plan has been fully
 17 implemented by Post-Effective Date DTDF and all assets of the DTDF Estate and Post-Effective
 18 Date DTDF have been fully liquidated and distributed and the DTDF Estate and Post-Effective
 19 Date DTDF fully administered, DTDF shall be dissolved in accordance with the Confirmation
 20 Order, the DTDF Amended Operating Agreement and applicable state law.

21 71. FTDF, USA Realty, and USA Securities shall have the authority to effect
 22 all transactions and take all actions, including, without limitation, filing applicable tax
 23 returns, required by the Plan on and after the Effective Date. FTDF and the FTDF Committee
 24 shall each have authority to prosecute (a) claim objections in the FTDF Estate, and (b) the non
 25 assignable

26 FTDF Litigation Claims on behalf of FTDF subject to the compromise with DTDF set
 27 forth herein. After the actions set forth in this paragraph are completed, FTDF, USA Realty, and
 28 USA Securities shall be dissolved in accordance with the Confirmation Order and applicable state

1 law, and FTDF, USA Realty, and USA Securities, or their respective appointed Disbursing Agent,
2 which may be DSI, shall file a final report and close their respective Chapter 11 Cases in
3 accordance with Bankruptcy Code section 350.

4 72. The Post-Effective Date Entities may execute such other documents and take such
5 other actions as may be necessary or appropriate to effectuate the transactions contemplated under
6 this Plan.

7 73. The reversal or modification of this Confirmation Order or Findings on appeal shall
8 not affect the validity of the Plan, or any agreement or action authorized by this Confirmation
9 Order or under the Plan, including the Asset Purchaser Agreement, with respect to any entity
10 acting in good faith, whether or not that entity knows of the appeal, unless this Confirmation
11 Order is stayed pending appeal.

12 74. Within ninety (90) days of the Effective Date, the Debtors or a Post-Effective Date
13 Entity or the FTDF Committee, to the extent applicable, shall File a status report for each of the
14 respective Debtors setting forth what progress has been made toward the consummation of the
15 confirmed Plan. The status report shall be served on the U.S. Trustee, the Debtors, prior to
16 dissolution or transition to the Post-Effective Date Entities, the Post-Effective Date Entities, and
17 any Entities who have Filed a request for such reports with the Court. Unless otherwise ordered,
18 further status reports shall be Filed every ninety (90) days and served on the same Entities. On or
19 after the Effective Date, no monthly operating reports need to be filed with the U.S. Trustee.

20 75. Once each Estate has been fully administered, as referred to in Bankruptcy
21 Rule 3022, the Post-Effective Date Entities, the Debtors, or another party as the Court may
22 designate, shall File a final report and account of all receipts and disbursements, and serve that
23 report on the U.S. Trustee, and any other Entities entitled to service under any applicable law.
24 Any such final report shall include a request that the Court enter a Final Decree in the Chapter 11
25 Case of the applicable Debtor.

26 76. Nothing in this Confirmation Order or the Plan shall be construed or interpreted to
27 release, discharge, enjoin or otherwise adversely impact any claim or claims of PBGC or any
28 pension plan, currently or formerly sponsored by the Debtors against any person arising under 29

1 U.S.C. Sections 1104-1109 with respect to the pension plans.

2 77. Nothing in this Confirmation Order or the Plan, including without limitation the
3 injunction provided in Section IV.H. of the Plan: (i) shall alter, affect or supersede the Bankruptcy
4 Court's Order Approving Agreement With Investment Partners entered on July 24, 2006 (Docket
5 No. 946); or (ii) shall enjoin, prejudice, limit, preclude or otherwise impair the rights and remedies
6 that (a) the Debtors and their respective Estates, (b) the Post-Effective Date Entities, (c) the Direct
7 Lenders, or (d) creditors of the Debtors or parties in interest, including Liberty Bank, as or may
8 have against any non-debtor third parties, including without limitation HMA Sales, LLC ("HMA")
9 and USA Investment Partners, LLC ("USAIP"), under the Receivables Loan Agreement between
10 Liberty Bank and HMA dated as of November 15, 2004, as amended, and the loan documents
11 securing and/or relating thereto, including without limitation the Guaranty Agreement executed by
12 USAIP and the Subordination Agreement among USAIP, HMA and Liberty Bank, each dated as
13 of November 15, 2004.

14 78. Nothing in this Confirmation Order or the Plan shall be construed or interpreted to
15 release, discharge, enjoin or otherwise adversely impact the assertion of any setoff, recoupment,
16 counterclaim or defense that Standard Property Development, LCC ("Standard"), Binford Medical
17 Developers, LLC ("Binford"), or Copper Sage Commerce Center, LLC ("Copper Sage") may
18 assert against any lender, other than FTDF, USACM, or Compass as the assignee or transferee of
19 the assets of FTDF and USACM, to the attempted enforcement, collection and/or foreclosure of
20 the applicable Loan(s) to such borrower; as for FTDF or USACM or Compass as the assignee or
21 transferee of the assets of FTDF and USACM, nothing in this Confirmation Order or the Plan shall
22 be construed or interpreted to preclude Standard, Binford, or Copper Sage from asserting any
23 defense (including the defense of recoupment) to the enforcement, collection and/or foreclosure
24 of FTDF's or USACM's undivided interest in the Standard, Binford, or Copper Sage Loan(s) to
25 such borrower.

26 79. Each term and provision of the Plan is hereby deemed to be valid and enforceable
27 pursuant to its terms.

28 80. If and to the extent that there is any direct conflict between the terms of the Plan,

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1 the Findings and the terms of this Confirmation Order, this Confirmation Order shall control.

2 81. Notwithstanding the fact that Joseph Milanowski, Thomas Hantges, Paul Hamilton,
 3 Victoria Loob, USA Investment Partners, LLC, USA Commercial Real Estate Group, Cynthia
 4 Milanowski, or Salvatore Reale, their insiders or affiliates may have acted or served in some
 5 capacity with the Debtors after the Petition Date or may have some other connection with the
 6 Debtors or the Debtors' Estates, and notwithstanding anything in the Plan to the contrary or which
 7 could be construed to the contrary, nothing in the Plan nor this Confirmation Order shall be
 8 construed as providing a release of any claims or causes of action against Joseph Milanowski,
 9 Thomas Hantges, Paul Hamilton, Victoria Loob, USA Investment Partners, LLC, USA
 10 Commercial Real Estate Group, Cynthia Milanowski, or Salvatore Reale, their insiders or
 11 affiliates (other than the Debtors themselves in accordance with the provisions of the Plan).

12 82. Nothing contained in the Asset Purchase Agreement shall modify the obligations
 13 owed to the Lenders by Compass as the loan servicer or rights of the Lenders against Compass as
 14 the loan servicer (or the rights of Compass as the loan servicer against the Lenders) under the
 15 applicable Loan Servicing Agreements and otherwise applicable law. Compass shall distribute
 16 any sums due to Lenders under any of the Loan Servicing Agreements in accordance with the
 17 Loan Servicing Agreements, as the same may be modified with consent of the applicable Lenders,
 18 and with otherwise applicable law. Compass shall apply all payments and proceeds from Serviced
 19 Loans (as such term is defined in the Asset Purchase Agreement), however collected, whether
 20 through liquidation of collateral, payments from the Borrower or otherwise, in accordance with the
 21 provisions of the notes and/or loan agreements. Further, notwithstanding the foregoing, to the
 22 extent the Bankruptcy Court has entered an order, including, but not limited to, this Confirmation
 23 Order, which interprets or enforces provisions of the Loan Servicing Agreements or directs the
 24 distribution of payments under the Loan Servicing Agreements or payments collected from
 25 Borrowers, Compass, the Lenders, and all other affected parties shall abide by the terms of such
 26 order(s). If, as between the provisions of the Loan Servicing Agreements and the order(s) of the
 27 Bankruptcy Court, it is not clear to Compass how the sums collected shall be distributed, then
 28 Compass shall hold the sums payable to the Lender until Compass either receives direction from

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the Lender and, as to items not constituting Commercial Mortgage Assets (as such term is defined in the Asset Purchase Agreement), the Sellers (or their successor or assignee under the Plan) regarding disbursement of interest, or is directed by an order from a court of competent jurisdiction. Nothing contained herein is intended to waive any defenses of the Lenders or, as to items not constituting Commercial Mortgage Assets (as such term is defined in the Asset Purchase Agreement), the Sellers (or their successors or assignees) under the Loan Servicing Agreements. For the avoidance of doubt, under no circumstance shall any pre-Closing Date liability assertable by any party attach to Compass, or to any asset acquired by Compass, pursuant to the Asset Purchase Agreement. Furthermore, for the avoidance of doubt, notwithstanding any other provision in the Asset Purchase Agreement, this Confirmation Order, or any order which may in the future be entered by the Bankruptcy Court, all servicing fees due pursuant to the terms stated in the Loan Servicing Agreements, and all interest due on the First Trust Deed Fund Assets (as such term is defined in the Asset Purchase Agreement), shall continue to be due and payable, and Compass shall collect such servicing fees and interest for its sole benefit on and after the Closing Date.

Submitted by:
 RAY QUINNEY & NEBEKER P.C.
 and SCHWARTZER & MCPHERSON LAW
 FIRM

Approved / Disapproved by:
 OFFICE OF THE U.S. TRUSTEE

By: /s/ Lenard E. Schwartz
 LENARD E. SCHWARTZER, ESQ.
 JEANETTE E. MCPHERSON, ESQ.
 ANNETTE W. JARVIS, ESQ.
 STEVEN STRONG, ESQ.
Counsel for Debtors

By: _____
 August B. Landis

Approved/Disapproved by:
 LEWIS AND ROCA, LLP

Approved/Disapproved by:
 GORDON & SILVER, LTD.

By: /s/ Rob Charles
 SUSAN M. FREEMAN, ESQ.
 ROB CHARLES, ESQ.
*Counsel for the Official Committee of
 Unsecured Creditors of USA Commercial
 Mortgage Company*

By: /s/ Gregory Garman
 GERALD M. GORDON, ESQ.
 GREGORY E. GARMAN, ESQ.
*Counsel for the Official Committee of
 Holders of Executory Contract Rights of
 USA Commercial Mortgage Company*

By: DAVID COHEN, ESQ.
Counsel for Sierra Liquidity Fund

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[PROPOSED] ORDER CONFIRMING THE "DEBTORS' THIRD AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION," AS MODIFIED HEREIN

Approved/Disapproved by:

Approved/Disapproved by:

By: _____
GREGORY J. WALCH ESQ.
*Counsel for Gregory J. Walch and Shauna
M. Walch, Trustees of the Gregory J. and
Shauna M. Walch Family Trust*

By: _____
JEFFREY SYLVESTER, ESQ.
*Counsel for USA Commercial Real Estate
Group*

Approved/Disapproved by:

Approved/Disapproved by:

By: _____
RUSSELL WALKER, ESQ.
*Counsel for USA Investment Partners, LLC,
Joseph Milanowski and Thomas Hantges*

By: _____
SUSAN SCANN, ESQ.
*Counsel for Copper Sage Commercial
Center and Binford Medical Developers, LLC*

Approved/Disapproved by:

Approved/Disapproved by:

By: /s/ Andrew Brumby
ANDREW BRUMBY, ESQ.
R. VAUGHN GOURLEY, ESQ.
Counsel for Standard Property Development

By: _____
WADE GOCHNOUR, ESQ.
ARYN M. FITZWATER, ESQ.
Counsel for Liberty Bank

In accordance with LR 9021, counsel submitting this document certifies as follows (check one):

☐ The court has waived the requirement of approval under LR 9021.

☐ No parties appeared or filed written objections, and there is no trustee appointed in the case.

☒ I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and any trustee appointed in this case, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

Failed to respond:

WADE GOCHNOUR, ESQ.
SUSAN SCANN, ESQ.
RUSSELL WALKER, ESQ.
JEFFREY SYLVESTER, ESQ.
GREGORY J. WALCH ESQ.
DAVID COHEN, ESQ.
MICHAEL SCHMAHL, ESQ.
AUGUST B. LANDIS, ESQ.

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